



1936  
20th SESSION  
III

Industries & Labour  
Reed: 4  
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**REPORT III**

# International Labour Conference

TWENTIETH SESSION  
GENEVA, 1936

## Reduction of Hours of Work on Public Works undertaken or subsidised by Governments

Third Item on the Agenda



GENEVA  
International Labour Office

1936

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GENEVA, SWITZERLAND

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1936  
20th SESSION  
III

**REPORT III**

# International Labour Conference

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TWENTIETH SESSION  
GENEVA, 1936

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## **Reduction of Hours of Work on Public Works**

### **undertaken or subsidised by Governments**

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Third Item on the Agenda

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GENEVA  
International Labour Office

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1936

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PRINTED BY ALBERT KUNDIG, GENEVA

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# INTRODUCTION

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The question of the reduction of hours of work on public works undertaken or subsidised by Governments appears on the agenda of the Twentieth Session of the International Labour Conference as a result of a decision taken by the Conference at its Nineteenth Session in June 1935. At that Session the discussion of the general question of the reduction of hours of work, regarded as a means both of relieving unemployment and of enabling workers to share in the benefits of technical progress, which had taken place at previous Sessions, was brought to a conclusion by the adoption of the Forty-Hour Week Convention, 1935. This Convention provides that each State ratifying it "declares its approval of (a) the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence; (b) the taking or facilitating of such measures as may be judged appropriate to secure this end". It also contains an undertaking to apply this principle to classes of employment in accordance with the detailed provisions to be prescribed by such separate Conventions as may be ratified by the State. It was with a view to the adoption of one of these separate Conventions that the Nineteenth Session of the Conference decided to place on the agenda of the Twentieth Session the item which is the subject of the present Report.

A proposed Draft Convention, the text of which is reproduced in the next section of this Report, was in fact discussed by the Nineteenth Session itself. This text was approved on the final vote by 67 votes to 38, but as it failed to obtain the two-thirds majority required by the Constitution of the International Labour Organisation it was not adopted. The Conference thereupon decided by 84 votes to 31 to place the question on the agenda of its next Session for second discussion in accordance with the usual double-discussion procedure.

In preparation for this second discussion the International Labour Office addressed to the Governments of all the States Members of the Organisation a Questionnaire framed on the basis determined by the Nineteenth Session. This Questionnaire was



despatched towards the end of July 1935 and Governments were requested to furnish their replies not later than 1 December 1935, so as to enable the Office to despatch this Report to Governments in good time before the opening of the Twentieth Session, which is fixed for 4 June 1936. Unfortunately there was a considerable delay in the receipt of replies, but by the date when this Report was made up replies had been received from the Governments of the following countries: Austria, Belgium, Brazil, Bulgaria, Canada (Provinces of Alberta, British Columbia, Manitoba and Saskatchewan), Chile, Colombia, Cuba, Denmark, Estonia, Finland, France, Great Britain, Hungary, India, 'Iraq, Italy, Japan, Netherlands, Norway, Poland, Spain, Sweden, Switzerland, Union of South Africa, United States of America, Yugoslavia.

The replies received from these Governments are reproduced in Chapter I of the Report. Chapter II gives a comparative analysis of the replies and the conclusions drawn therefrom by the Office, and at the end of the volume will be found the text of a proposed Draft Convention which the Office submits to the Twentieth Session of the Conference as a basis for its discussions and final decision on the question.

Geneva, *March 1936.*

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**Text of the proposed Draft Convention concerning the Reduction of Hours of Work on Public Works, approved, but not adopted, by the Nineteenth Session of the Conference**

The General Conference of the International Labour Organisation,

Having met at Geneva in its Nineteenth Session on 4 June 1935;

Considering that the question of the reduction of hours of work is the sixth item on the Agenda of the Session;

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living;

Having determined to give effect to this reduction forthwith in the case of public works undertaken or subsidised by Governments;

adopts this . . . . day of June 1935 the following Draft Convention, which may be cited as the Reduction of Hours of Work (Public Works) Convention, 1935:

*Article 1*

1. This Convention applies to persons employed on building or civil engineering work financed or subsidised by central Governments.

2. For the purpose of this Convention the precise scope of the terms "building or civil engineering", "financed" and "subsidised" shall be delimited in each country by the competent authority after consultation with the employers' and workers' organisations concerned where such exist.

3. The competent authority in each country may, after consultation with the employers' and workers' organisations concerned where such exist, exempt from the application of this Convention:

- (a) persons employed in undertakings in which only members of the employer's family are employed;
- (b) persons occupying positions of supervision or management or engaged in technical control of operations who do not ordinarily perform manual work.

*Article 2*

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts at processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. Where hours of work are calculated as an average the competent authority shall, after consultation with the employers' and workers'

organisations concerned where such exist, determine the number of weeks over which this average may be calculated.

4. For the purpose of this Convention, the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

### Article 3

1. The competent authority may by regulation provide that the limits of hours prescribed in the preceding Articles may be exceeded in the case of:

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking; and
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls.

2. The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article.

### Article 4

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in the case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*; or
- (b) in order to make good the unforeseen absence of one or more members of a shift.

### Article 5

1. The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with the employers' and workers' organisations concerned where such exist, and no such allowance shall permit of the staff being employed for more than one hundred hours of overtime in any year.

2. In cases of urgency in which it is satisfied of the impracticability of engaging additional persons, the competent authority may, in respect of specified persons or classes of persons, grant to individual undertakings temporary permits for further overtime, so, however, that no such permit shall allow the employment of any person for more than sixty hours of such overtime in any year.

3. Overtime authorised under this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

### Article 6

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required:

- (a) to notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority:
  - (i) the hours at which work begins and ends;
  - (ii) where work is carried on by shifts, the hours at which each shift begins and ends;
  - (iii) where a rotation system is applied a description of the system, including a timetable for each person or group of persons;
  - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks; and
  - (v) rest periods in so far as these are not reckoned as part of the working hours;
- (b) to keep a record in the form prescribed by the competent authority of all additional hours worked in pursuance of Articles 3, 4 and 5 and of the payments made in respect thereof.

### Article 7

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning:

- (a) the definitions adopted in virtue of Article 1, paragraph 2;
- (b) processes classed as necessarily continuous in character for the purpose of Article 2, paragraph 2;
- (c) arrangements of hours of work approved in virtue of Article 2, paragraph 3;
- (d) regulations made in virtue of Article 3; and
- (e) allowances of and temporary permits for overtime granted in virtue of Article 5.

### Article 8

Nothing in this Convention shall affect any custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.

[Here follow the "standard articles" in the usual form.]



## CHAPTER I

### REPLIES OF THE GOVERNMENTS TO THE QUESTIONNAIRE

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The Governments of the following countries did not furnish detailed replies to the Questionnaire: Austria, Bulgaria, Canada (Provinces of Alberta, British Columbia and Saskatchewan), Colombia, Estonia, Great Britain, Hungary, India, Japan, the Netherlands, Sweden, Yugoslavia. The general statements made by these Governments are reproduced below.

#### AUSTRIA

In view of the widespread unemployment from which the world is suffering, it is fitting that every measure and every means proposed by competent authorities to alleviate this evil should be examined.

The International Labour Organisation has for many years past dealt in welcome manner with the problem of the reduction of hours of work as a remedy for unemployment. To this problem, viewed from a universal standpoint, no uniform solution has so far been offered. Opinions on the subject still differ—indeed are diametrically opposed. For this reason the International Labour Organisation has decided to divide the general question of the reduction of hours of work into several questions, and to consider the problem in the first instance in relation to certain industries only. This method is undoubtedly calculated to elucidate opinion. However, even such a procedure cannot conceal the fact that in countries with rich sources of raw material, ample supplies of capital, low rates of interest, large inland markets and assured export possibilities, as well as up-to-date technical equipment, the situation with regard to the adoption of the forty-hour week is considerably more favourable than in countries where these essential conditions do not exist. Austria belongs to the latter group and has had a hard struggle to rebuild gradually its economic position weakened by the world war and the post-war depression. To avoid any risk of endangering the progress made the greatest caution must be exercised before taking any decision regarding the reduction of hours of work, a measure which, in view of the differences of opinion, must still be regarded as an experiment the effects of which are yet unknown.

The Government adopts, therefore, an attitude of reserve and refrains from replying in detail to the Questionnaire.

#### BULGARIA

The Government considers that it is premature for Bulgaria to adhere to the proposed Conventions in view of the fact that the industries in question are for the most part seasonal or are in the initial stages of development.

Moreover, Bulgarian industry is not sufficiently equipped with improved machinery to enable the workers to produce enough within the space of a shorter working day.

## CANADA

### *Province of Alberta*

Public works carried on in this Province have, due to weather conditions, to be prosecuted during a limited period of the year. An eight-hour day and a forty-four-hour week for building construction and an eight-hour day and a forty-eight-hour week for road construction is the recognised practice.

### *Province of British Columbia*

These matters are at present subject to Government regulation in this Province by virtue of the Hours of Work Act, Chapter 30, Statutes of British Columbia, 1934, a Statute patterned very largely along the lines of the Draft Convention of the International Labour Organisation, 1919.

In view of the fact that the question of Dominion and Provincial jurisdiction is at present before the Supreme Court of Canada; the Provincial Government has deemed it advisable to refrain, meantime, from filling in the answers to the Questionnaire.

### *Province of Saskatchewan*

The proposed Draft Convention outlined in this Questionnaire would seem to provide for limitation of hours of work as a general policy to forty hours per week. The Provincial Government for the most part includes as a condition of all contracts for the construction of larger public works that all persons employed thereon shall not as a general rule be employed for more than forty-eight hours per week.

In so far as Government works are concerned and considering the limited amount of such work, the Government is of the opinion that the time is not opportune for reducing the weekly hours of labour on public works in the Province of Saskatchewan to forty hours per week.

## COLOMBIA

The Government confirms the view already expressed by it on other occasions, namely that in Colombia no necessity is felt for shorter working hours. These are at present fixed at eight a day and forty-eight a week by Decree No. 895 of 1934, which is modelled closely on the Convention adopted by the Washington Conference in 1919.

## ESTONIA

Public works in Estonia consist almost exclusively of building and civil engineering work, so that the reply to the Questionnaire on public works is bound to correspond with that to the Questionnaire on building and civil engineering.

Building workers are not suffering from unemployment. On the contrary, it was found necessary last season to allow extensions of hours on a considerable scale, since otherwise building work might have remained uncompleted by the time the bad season set in. The period

during which building can be carried on is much shorter in Estonia than in Southern and Western countries, owing to the climatic conditions; it does not last for more than seven or eight months at the most. Moreover, mechanical appliances are as yet little used in building and constructional work, and this constitutes a serious handicap since the work cannot be executed with the rapidity that would otherwise be possible.

Finally, there is no permanent body of building trade workers in Estonia, there being often a shortage of labourers, not to speak of skilled workers.

In these circumstances the Government does not see sufficient reason for changing the view it expressed in reply to the Questionnaire on the reduction of hours of work in 1933, when it declared itself opposed to the adoption of a Draft Convention and stated that a Recommendation would be preferable.

As the Questionnaire only takes into account the possibility of adopting a Draft Convention and is framed accordingly, the Government refrains from replying to it in detail.

### GREAT BRITAIN

The general considerations set out in the reply to the Questionnaires on the reduction of hours of work in iron and steel works and in the building and civil engineering industry<sup>1</sup> apply also to the reduction of hours on public works undertaken or subsidised by Governments.

In addition, the Government consider that public works undertaken or subsidised by Governments do not constitute a separate industry but are a cross-section of many industries, and that it would be wrong

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<sup>1</sup> The considerations to which the British Government refers are as follows:

(a) The Forty-Hour Week Convention, 1935, approves "the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence". The Government regard this provision as lacking in precision and outside the possibility of legal enforcement so that the Convention provides no real safeguard of the standard of life of the workers.

(b) The 1935 International Labour Conference, having adopted the Forty-Hour Week Convention, passed a Resolution in which the view is expressed that the application of the principle of the forty-hour week "should not as a consequence reduce the weekly, monthly or yearly income of the workers whichever may be the customary method of reckoning, nor lower their standard of living". The inference from the words quoted is that the Convention itself does not provide any safeguard against the reduction of the earnings of the workers consequent upon the reduction of hours and that some further action was required to cover this point. The Resolution, however, which is apparently designed to meet this difficulty, imposes no binding obligation on Governments and the Government therefore take the view that neither in the 1935 Convention nor in the Resolution is there any provision which secures the maintenance of earnings as an essential condition of the reduction of hours.

(c) In directing special attention to the question of the maintenance of earnings the Government take note of the view expressed in the course of the International Labour Conference of 1935 by representatives of the General Council of the Trades Union Congress in favour of the reduction of weekly hours of work to forty on the understanding that there is such adjustment of wages as will secure to the workers no less income per week than was received by them prior to the hours being reduced.



to legislate in the matter of hours not on the basis of the nature of an activity but according to whether or not the activity was directly or indirectly being conducted under Government auspices.

Having regard to these considerations, the Government's answer to the first question in this Questionnaire must be in the negative and consequently the remaining questions do not call for reply.

## HUNGARY

The Hungarian Government refrains from giving detailed replies to Questionnaires III, IV, V and VI relative to the application of the forty-hour week, in view of the fact that, as a result of the economic situation of the country, consideration is only now being given to the application of the forty-eight hour week which, moreover, has already been adopted in certain branches of industry. Under present economic conditions in Hungary there can be no question even of the systematic application of the forty-eight-hour week in agriculture. As a consequence, the introduction of still shorter working hours, in particular of the forty-hour week, is not advisable under present conditions either in agriculture or in industry.

## INDIA

So far as India is concerned, a compulsory reduction of hours to the limit proposed is entirely impracticable. Generally speaking, the Indian worker cannot produce sufficient to secure an adequate living in the time which it is proposed to allow.

Viewed from the wider world aspects the Government of India consider that the policy underlying the proposals is unsound. The mere spreading of work by reducing hours in differing degrees, regulated according to the degree of unemployment, might be useful in certain countries as a means of absorbing a number of the unemployed. But a big reduction on a general scale to a uniform level, selected without regard to national conditions, would involve a reduction in production for a considerable period and a consequent reduction in the standard of living.

The application of the principles proposed to individual industries in the manner contemplated does not diminish the difficulties. For as the community in general will not be willing or able to pay an increased price for the products of the particular industries selected, and as an increased number of workers will be required to produce those products, the standard of living in these industries can only be maintained by the aid of subsidies from the State. The grant of such subsidies to workers in individual industries in order to secure for them a lower level of hours than others have to work would be wrong in principle and the grant of subsidies to any large number of industries would be impossible.

In the circumstances the Government of India offer no comments on the remaining questions.

## JAPAN

In view of the present situation of industry in general in Japan, it is difficult to impose by legislation a reduction of hours of work which would contribute to an improvement in the unemployment situation.

Moreover, the position is the same with regard to the application of this reduction by categories of industry, such as public works under-

taken or subsidised by Governments, the building and civil engineering industry, coal mines and iron and steel works, having regard to the connection between these and other categories.

For these reasons, the Government is unable to give a favourable reply to the Questionnaire, which is framed with a view to securing a reduction of hours of work by means of international regulations.

### THE NETHERLANDS

The Government has already expressed its doubts as to the possibility of diminishing unemployment by the adoption of regulations for the reduction of hours of work. It refers to its detailed reply to Questionnaire I on the Reduction of Hours of Work (Eighteenth Session of the International Labour Conference) and to the Preamble thereto.

In the opinion of the Government the increase of costs of production—an inevitable result of a reduction of hours of work—is the principal objection to the adoption of a forty-hour week. A tendency to an increase in costs of production will be evident even if the reduction of hours of work is unaccompanied by a proportionate increase in the hourly or piece-work rates. Even in that case special charges, such as social insurance charges (invalidity, old age, death), will rise with the increase in the number of workers employed. In some undertakings an increase in the number of machines, possibly an extension of the factory, will be inevitable if it is desired to maintain the same weekly output. Such factors will lead to increased charges on production, which may be on a modest scale, perhaps, but which, in view of the fact that so many undertakings are already working at a loss, will in some cases be found impossible to bear under present conditions. Moreover, in addition to these factors which will increase costs of production, there is the following objection: if in a particular industry it is found necessary to reduce wage rates to correspond to general economic conditions, the introduction of the forty-hour week might be an obstacle to the application of that reduction for, while the workers could, with a forty-eight-hour week, accept a reduction of hourly rates, their weekly income would, with a forty-hour week, fall to an unacceptable level.

It is mainly for the foregoing reasons that the Government considers that the question of the introduction of a forty-hour week as a means of combating unemployment—even if unaccompanied by an increase of hourly and piece-work rates—should be handled with great prudence. In any event, a reduction of hours of work accompanied by a reduction of the income of the workers would not be in harmony with the principle of the Draft Convention concerning the reduction of hours of work to forty a week adopted by the Nineteenth Session of the International Labour Conference. For is it not stipulated that that principle must not result in a lowering of the standard of living of the workers?

The application of the principle will reveal, to a very marked extent, the dangers of an increase in costs of production. In this connection the Government wishes to draw attention to the particular situation of the Netherlands, where the levels of wages and costs of upkeep are considerably higher than in many other countries. The Netherlands are to-day in an even more disadvantageous position in this respect than at the time of the Government's reply to the Questionnaire mentioned above, for since that time the number of countries which have devalued their currency has increased. It is more than ever necessary for the Netherlands to avoid any step which might endanger

its power to compete on the world market. Even from the national standpoint an increase in costs of production would be highly undesirable in view of the fall in the income of the population; the Government is of opinion that, on the contrary, the only policy that can be pursued with advantage is one which will tend to reduce costs of production. The adoption of the forty-hour week with the maintenance of the existing standard of living of the workers would be in contradiction to that policy.

Having made the above observations, the Government does not consider it necessary to give more detailed arguments showing that such a measure is not acceptable to the Netherlands. It would result in a diminution of demand and production and, consequently, an increase in unemployment.

The above objections apply, of course, not only to regulations which would cover all industries, but also to regulations which would cover only special branches of industry. The attitude of the Netherlands Government towards a Draft Convention such as is proposed in Question 1 is negative. That attitude is all the more justified by the fact that public works belong to those industries which, by their nature, are not exposed to international competition (sheltered trades) and where as a rule the wage level is higher than that of industries forced to compete on the world market. The case is all the weaker, consequently, for including the first-named industries when considering the application of a measure which leads to an increase in costs of production.

In its replies to the Questionnaire and Preamble concerning this question for the Eighteenth Session of the International Labour Conference (referred to above), the Government has already expressed its views on the points covered by the other questions. The Government draws attention to these replies and considers moreover that, in view of its negative attitude to Question 1, it is unnecessary to reply to the remaining questions.

#### SWEDEN

The policy with regard to unemployment in Sweden in recent years has been inspired by expansionist principles and aimed at creating employment. There is not, it is true, any inevitable contradiction between such a policy and one which seeks to distribute the available amount of work among a large number of workers by reducing the hours of work. Should the problem be approached on the lines of the former policy, reduction of hours of work would, however, appear to be a secondary measure to be resorted to only after the other steps for dealing with unemployment had proved inadequate. (In this connection, the fact that reduction of hours of work may be regarded as a social requirement from other points of view than that of unemployment policy is not lost sight of.) While struggling against unemployment, exceptionally widespread in the last years of the crisis, with the idea of not leaving untried any measure calculated in the end to lead to the goal, the Swedish Government has always been equally ready to adopt a favourable attitude in regard to international efforts for reducing hours of work. It has, however, always insisted on the necessity of giving effect to the proposed reform while maintaining the standard of living of the workers and of its being adopted by the principal competitors of Sweden on the world market as the conditions for its adhesion to international regulations in this respect. It seems indeed likely that the technological progress made in the course of the last few decades in the chief industrial countries

is such as to make a reduction of hours of work possible without affecting unfavourably the conditions of life in general, provided that industrial organisation can be adapted to the revised hours of work in a way calculated to increase the capacity for production and to utilise effectively the available resources. But, if only a few countries reduce hours of work while maintaining the present wages of workers, the cost of production would be affected to their detriment and the result would be the risk of an increase in unemployment.

At the last session of the International Labour Conference, the Swedish Government delegates, in accordance with their instructions, voted in favour of the General Principle Convention establishing a forty-hour week. They again expressed on this occasion the reservations noted above and recalled the declaration, made officially at the competent Committee, that the ratification of the General Principle Convention would not involve any obligation to ratify the particular Conventions concerning the reduction of hours of work in the various fields of activity which might be adopted by the Conference. During the discussion of the Draft Convention relating to the reduction of hours of work in public works, they explained the objections of the Swedish Government to giving effect progressively to this reform and declared that none of the then existing particular Draft Conventions in respect of this matter could for the moment be applied in Sweden without giving rise to serious difficulties. The Draft Convention concerning the reduction of hours of work in public works would not, however, affect Sweden as regards international competition; for that reason and, having regard to the opinion that the reform was necessary, which then prevailed in many quarters, the Swedish delegates supported the adoption of this proposal, the ratification of which was, however, uncertain in the case of Sweden.

In the course of these last years and particularly in 1935, the situation in the labour market in Sweden has considerably improved. At the time when the question of reduction of hours of work internationally, regarded as a means of overcoming unemployment, came to the front, i.e. in the autumn of 1932, the number of unemployed seeking relief at the hands of the public authorities in Sweden rose to 161,155, the highest figure for that year, reached in the month of December. The percentage of unemployed among the workers belonging to trade unions was 31 per cent. in this same month of December 1932. The highest figure relating to the number of the unemployed seeking relief was registered at the beginning of the year 1933, when it was in the neighbourhood of 190,000. After this date, there was quite an appreciable decline in unemployment. During the first nine months of 1935, it fell from 93,419 to 41,190, the percentage among workers belonging to trade unions unemployed in the course of the same period having declined from 22.5 to 11 per cent. There has been a slight increase in these figures since then, which, however, is of a seasonal character.

Enquiries into the labour supply have also led to conclusions which point to a marked improvement in the labour market in Sweden. An enquiry, pursued systematically for the last few years, relating to cases of shorter hours of work, etc., to be found during a previously specified week in the month of November, shows notably that the proportion of workers with reduced hours of work (including those temporarily discharged) out of the total number engaged in industry, properly so called, is as follows: about 40 per cent. in 1932; about 25 per cent. in 1933; about 10 per cent. in 1934 and about 7 per cent. in 1935. The average of the hours of work for all the industrial workers covered by this enquiry during the week considered was 43.5 hours in 1932, 46 hours

in 1933, 47 hours in 1934 and 47.5 hours in 1935. To illustrate the change in the labour market, the fact should also be mentioned that there was an appreciable increase in the course of these last two years in the over-time permitted in case of urgent necessity.

In certain fields there was an appreciable shortage of skilled workers in 1935. Official employment exchanges referred to this in their reports as regards mechanical workshops and building. In the last-named industry it was even found necessary to import temporarily Danish and Norwegian labour during the busiest part of the season.

It will be seen from the preceding that, on the whole, the demand for labour in Sweden at present must be considered satisfactory. In the greater part of the labour market in Sweden the situation may be regarded as normal. Unemployment above the normal rate, which still persists, concerns above all certain districts in which employment mainly depends on branches of production which are declining as a result of structural modifications in exports.

In view of the situation in the labour market in Sweden, such as has just been described, apart from all considerations of the principle involved, a reduction of the weekly hours of work to forty, in order to reduce unemployment, does not seem to be called for at present.

As to the four particular Draft Conventions in question, the following observations are made:

As regards the regulation of hours of work, public works undertaken or subsidised by the Government could not be distinguished from other building or civil engineering works. A considerable number of public works coming under the above definition are carried out by district boards (construction of roads, etc.), private contractors, agriculturists (improvement in housing, drainage, etc.) and others. With regard to Sweden, the question of reduction of hours of work in public works referred to in the Draft Convention should be considered in the light of existing conditions in respect of building and civil engineering works as a whole, whether public or private.

As a result of the climatic conditions and general custom in Sweden, building works are to a considerable extent of a seasonal character. It follows that in the building industry in Sweden the problem of unemployment is essentially one of seasonal unemployment. As has been stated above, the shortage of labour in this industry during the full season was such last year that it was necessary to import it temporarily from neighbouring Scandinavian countries. During the winter, on the other hand, when building operations are for the most part suspended, there is considerable unemployment. Should a reduction of hours of work in the building industry have the effect of increasing the number of workers engaged in it, there would evidently be also the same increase in seasonal unemployment. As long as building operations have such a distinctly seasonal character as is the case to-day in Sweden, it would hardly be reasonable to encourage workers to enter into an occupation in which employment is so very unstable by reducing the hours of work. It is to be noted in this connection that an official enquiry is being pursued at present devoted to the study of appropriate measures for reducing the seasonal fluctuations in the building industry.

As regards reduction of hours of work in public works undertaken or subsidised by the State, in addition to the objections stated above, it is necessary to call attention to the unfavourable repercussions that the adoption of this measure would have on the construction works subsidised by the State at present being proceeded with on a large

scale in Sweden with a view to increasing the number of houses and improving housing. These operations are above all aimed at bringing about an improvement—necessary from the social point of view—in the conditions of the housing of the people, but are very important also with regard to the struggle against unemployment. It is to be feared that they would be affected should a reduction of hours of work with the present scale of wages cause a further increase in the already high cost of building in Sweden.

It is also necessary to take into consideration in this connection the appreciable differences—socially regrettable—which exist between the wages of industrial workers on the one hand, and, on the other, those of workers engaged in agriculture or in lumbering. Should the State take measures to reduce the hours of work in industry while maintaining the present rates of wages, these differences would be further accentuated. There seems to be little doubt that at the present time it is in agriculture where it is most necessary to adopt measures regulating the hours of work. With a view to establishing equality between industrial and agricultural workers in respect of hours of work, the Swedish Government proposes to introduce a Bill for limiting the hours of work in agriculture in the 1936 Session of the Riksdag.

In the iron and steel industry in Sweden the conditions in respect of reduction of hours of work are in certain respects similar to those in the building industry in the sense that the demand for labour therein is satisfactory and it was even found last year that there was a shortage of qualified workers in certain categories. The crucial fact, however, in considering the question whether it would be desirable to proceed with a reduction of hours of work in this industry is that the Swedish iron and steel industry caters for export in an exceptionally large measure and is therefore particularly susceptible to foreign competition. Unfortunately, it is not to be expected that the condition to which Sweden has always subjected its adhesion to international regulations will be fulfilled in the not far distant future, i.e. that the most important of the competing countries should also adopt the same measure. In Germany, the chief of these countries, it appears that a fifty-six-hour week is worked in continuous iron and steel factories and as this country does not belong to the International Labour Organisation a Convention adopted by the latter providing for the reduction of hours of work would evidently not alter this situation in any way.

As for the reduction of hours of work in coal mines, it is only of very limited concern to Sweden, which produces only a small quantity of coal.

It will be seen from the above that the conditions favourable for limiting the hours of work to forty a week do not at present exist in Sweden in any of the fields of work referred to in the Questionnaires. Consequently, the Swedish Government considers that it is not necessary for it to reply in detail to the questions put therein.

#### YUGOSLAVIA

In view of the attitude adopted by the Yugoslav Government on the occasion of the vote on the Convention concerning the principle of the forty-hour week, its reply to the Questionnaire on the reduction of hours of work on public works is as follows:

It would not be possible in Yugoslavia to effect a reduction of hours of work on the lines of the proposed international regulations, for this would involve an increase in the cost of public works and so prevent,

in so far as this industry is concerned, the achievement of the end desired.

Moreover the application to public works of the international regulations on the reduction of hours of work would be inadvisable in view of the fact that the standard of living would be lowered as a result of the decrease in wages consequent upon the reduction of hours.

Finally, there are works which, by their nature, belong to the category of seasonal work for which the beginning and the length of the seasons vary; such works have to be carried on at an accelerated pace whenever circumstances are favourable. As a consequence, the forty-hour week would not be suitable for such work. Were it nevertheless to be applied, the greater part of the work would have to be done as overtime or by means of the two-shift system, and in both cases this would mean an increase in the cost of the work.

The Government is unable, therefore, to reply in favour of the adoption of a Forty-Hour Week Convention for public works.

\* \* \*

Detailed replies to the Questionnaire were furnished by the Governments of the following countries: Belgium, Brazil, Canada (Province of Manitoba), Chile, Cuba, Denmark, Finland, France, Iraq, Italy, Norway, Poland, Spain, Switzerland, the Union of South Africa, the United States of America. The replies of these Governments, subdivided according to the subject-matter of the various questions, are reproduced below.

## DESIRABILITY OF THE ADOPTION OF A DRAFT CONVENTION

1. Do you consider it desirable that the International Labour Conference should adopt, in the form of a Draft Convention, international regulations for the reduction of hours of work on public works undertaken or subsidised by Governments, in accordance with the principle laid down by the Forty-Hour Week Convention, 1935 ?

### BELGIUM

1. The reply is in the affirmative.

### BRAZIL

1. Although there is no unemployment in Brazil, the Government sympathises with all efforts to improve the situation of the unemployed.

For this reason any measure proposed for that purpose, even though it will not be applied in Brazil, will receive the support of the Government.

In these circumstances the Government replies as follows to the other points of the Questionnaire.

### CANADA

#### *Province of Manitoba*

1. The reply is in the affirmative.

CHILE

1. Yes, although the Government considers that a working week of forty-four hours, which is the period actually in force for public works in Chile, would be easier to apply in practice.

CUBA

1. The reply is in the affirmative.

DENMARK

1. The reply is in the affirmative.

FINLAND

1. The reasons for which the International Labour Conference has considered it necessary to adopt a general Convention concerning the forty-hour week are not imperative in the case of Finland to the same extent as in other countries, as has already been pointed out in previous reports. Unemployment, which is the principal reason, has almost ceased to exist in Finland. It has been reduced also in the particular field of employment now under consideration and, in fact, there is from time to time in certain places a shortage of suitable workers. If hours of work in industrial undertakings were reduced below eight hours a day, it is to be feared that agricultural workers would flock into industry and this would again give rise to unemployment. As for enabling workers to benefit by technical progress, this is dependent primarily on whether it would be possible to maintain the wages and standard of living of the workers after hours of work had been reduced, and this is uncertain. Further, owing to climatic reasons, the works to be dealt with in the proposed Draft Convention are more difficult to carry out in Finland than in other countries farther south. During the winter season the conditions of light and temperature reduce working hours often below the limit contemplated in the proposed Draft Convention and may even interrupt the work completely, whereas during the summer this loss has to be made up by working a longer day. The reduction of hours of work would, therefore, necessitate in any event a distribution of hours over longer periods than those contemplated in the proposed Draft Convention. From the point of view of Finland, uniform international regulations would give rise to difficulties and it would be difficult to secure uniformity of application in different countries in which the conditions of work entirely vary so. If, however, there are other countries which desire the adoption and application of international regulations on the subject, Finland would not oppose the regulations, but it could not itself at present introduce the forty-hour week in the field of employment now under consideration. It is subject to this reservation that replies are given to this Questionnaire.

FRANCE

1. The Government considers it desirable that the International Labour Conference should adopt international regulations, in the form of a Draft Convention, for the reduction of hours of work on public



works undertaken or subsidised by Governments in accordance with the principle laid down by the Forty-Hour Week Convention adopted by the Conference in 1935.

#### IRAQ

1. The Government considers that in countries where it has been or becomes possible to adhere to the Forty-Hour Week Convention the principle should be applied to public works undertaken or subsidised by Governments.

#### ITALY

1. The Government considers it desirable to adopt, in the form of a Draft Convention, international regulations for the reduction of hours of work on public works.

#### NORWAY

1. The reply is in the affirmative.

#### POLAND

1. The reply is in the affirmative.

#### SPAIN

1. Having regard to the adoption of the Forty-Hour Week Convention, 1935, and to the replies previously given by the Government on this question, the answer is in the affirmative.

#### SWITZERLAND

*Preliminary observations.* — The Government states that its attitude with regard to reduction of hours of work has already been expressed on various occasions either in its replies to the Questionnaires on the subject or in the speeches and declarations made by its representatives at the Conference. It does not, therefore, deem it necessary once more to go into the details of the reasons on which this attitude is based. It recalls that Switzerland, being an inland country without the raw materials indispensable for the needs of industry, with a surface of which large areas are unproductive and a restricted home market, is constrained, in order to feed its population, to export its goods to foreign markets, which are being closed to it more and more during recent years as a result of profound disturbances and changes in world economy. It regrets it cannot see its way to subscribe to a measure such as the one contemplated by the Questionnaire as it is convinced that the adoption of a measure such as the reduction of hours of work to forty per week in the international sphere presupposes the existence of normal economic relations and a certain stabilisation of world economy, even should the reduction be effected not at once, but by stages and by branches of industry, which, as has moreover been declared by its representatives, appears to be the only possible method. Further, the Government is convinced that, if wages and the standard of living were to be maintained as at present, and apart from the question of the disturbing effect of such a reduction of hours of work on industrial organisation, the establishment of a forty-hour week would increase the cost of production.

It was for these reasons, apart from the reservations which the principle of a forty-hour week in itself calls for, that the Swiss delegates could not support the Convention on the principle of the forty-hour week adopted by the Conference at its last Session.

It is in this sense that the Government referred the Questionnaire to its services, and it now replies briefly as follows.

1. No reply is considered necessary in view of the preliminary remarks, but it is observed that even in the absence of international regulations, any country may, with regard to public works, undertake measures calculated to spread out the available work among the largest possible number of workers, as international competition does not as a rule play any part in connection with such works and also because for building and civil engineering work a considerable amount of unskilled labour can be employed and there are no serious difficulties, in general, as regards the training of the workers, the amount of space available and the equipment required.

#### UNION OF SOUTH AFRICA

1. If the objective of the proposed Draft Convention is the *ultimate* adoption of a forty-hour week, then the answer is in the affirmative, but the Union Government wishes to make clear that it will not be in a position to contemplate ratification at least until the more important industrial countries have adopted the Convention.

#### UNITED STATES OF AMERICA

1. Yes. The experience of the United States under the extensive public works programme of the past few years leads to the belief that an international Convention limiting hours on public works to forty per week in general and without any reduction in living standards is entirely practicable. In fact this country in view of its experience with the thirty-hour week on Public Works sees reasons for an even sharper reduction in working time on public works.

### A. — REDUCTION OF HOURS OF WORK

#### SCOPE OF THE DRAFT CONVENTION

##### (a) *As regards the Works affected*

2. Do you consider that the Draft Convention should apply to persons employed on building or civil engineering work financed or subsidised by central Governments ?  
(Art. 1, par. 1.)

3. Do you consider that the Draft Convention should leave to the competent authority in each country the precise delimitation of the terms :

(a) " building or civil engineering " ;

(b) " financed " ;

(c) " subsidised " ?

(Art. 1, par. 2.)

4. Do you consider that before delimiting the terms specified in Question 3 the competent authority should be required in each case to consult with the employers' and workers' organisations concerned, where such exist ?  
(Art. 1, par. 2.)

5. If you do not approve of the method indicated in Questions 2 to 4 of defining the scope of the Draft Convention as regards the works affected, which of the following methods of defining "public works" do you consider should be adopted ?

- (i) Definition by means of a list of works to be regarded as "public works".
- (ii) A combination of a definition in general terms with a list of examples.

In either case, please give your suggested list and definition.

#### BELGIUM

- 2. The reply is in the affirmative.
- 3. The reply is in the negative.
- 4. In the event of a definition being decided upon, the reply is in the affirmative.
- 5. (i) The reply is in the negative.  
(ii) The Government does not advocate a list of examples and would propose merely to regard as "public works" for the purpose of the Convention all work carried out on behalf of all public, central and local administrations, including undertakings working under concessions, such as railway, tramway, water, gas and electricity services.

#### BRAZIL

- 2. The reply is in the affirmative.
- 3. (a), (b) and (c) The reply is in the affirmative.
- 4. No reply is given.
- 5. (i) The reply is in the affirmative.  
(ii) See reply to (i).

#### CANADA

##### *Province of Manitoba*

- 2. The reply is in the affirmative.
- 3. (a), (b) and (c) The reply is in the affirmative.
- 4. The reply is in the affirmative.
- 5. The question falls.

CHILE

2. The reply is in the affirmative.
3. Yes, subject to the observation made in reply to Question 5.
4. The reply is in the affirmative.
5. The Conference should adopt a Recommendation, to illustrate and complete the Draft Convention, in which among other things it would be useful to give a general definition of public works with a list of examples.

CUBA

2. The reply is in the affirmative.
3. The reply is in the affirmative.
4. The reply is in the affirmative.
5. The Government approves of the methods indicated in Questions 2 to 4.

DENMARK

2. The reply is in the affirmative.
3. The reply is in the affirmative.
4. The Convention should not prescribe any obligation in this respect.
5. See the replies to Questions 2 to 4.

FINLAND

2. The Draft Convention should apply only to works entirely financed by the State or local authorities.
3. The reply is in the affirmative.
4. The reply is in the affirmative.
5. See replies to Questions 2 to 4.

FRANCE

2. The Government would have preferred that the Draft Convention should apply to persons employed on building or civil engineering work financed or subsidised by all public authorities. If, however, the limiting of the Draft Convention to works financed or subsidised by central Governments will facilitate its adoption and ultimate ratification, the Government agrees to this course.

It would, however, be desirable to restore the word "directly" which preceded the word "employed" in the proposed text of the Draft Convention, so as to make it quite clear that the regulations apply only to persons employed on the public works themselves or on works

or operations accessory thereto which are concerned directly and exclusively in the execution of public works, undertakings furnishing supplies being excluded.

3. The Government considers that the Draft Convention should leave to the competent authority in each country the power to define more precisely the terms "financed" and "subsidised". As regards the kind of works to be dealt with the Government considers that it would be well to reproduce the definition of the scope given in the Draft Convention concerning hours of work in building and civil engineering.

4. The Government considers that before defining the terms mentioned in Question 3, the competent authority should be required in each case to consult beforehand with the employers' and workers' organisations concerned.

5. The question falls.

#### IRAQ

2. Yes, as mentioned in the reply to Question 1.

3. Yes, in all cases.

4. The Government considers it should be optional for the Governments concerned.

5. The question falls.

#### ITALY

2. The Government considers that the Draft Convention should apply to persons employed on building or civil engineering work financed or subsidised by Governments.

3 and 4. The Government considers that the Draft Convention should leave to the competent authority in each country, after consultation with the industrial organisations concerned, the precise delimitation of the terms: "building or civil engineering", "financed", "subsidised".

5. The question falls.

#### NORWAY

2. The reply is in the affirmative.

3. The reply is in the affirmative.

4. It is not necessary to reply to this question as the competent authority looks for complete data before taking any decision.

5. The question falls.

#### POLAND

2. The reply is in the affirmative.

3. The reply is in the affirmative.

4. (No reply is given.)<sup>1</sup>

5. The question falls.

#### SPAIN

2. The reply is in the affirmative. The Convention should apply both to building and civil engineering works undertaken by the public services, and to those which are subsidised by the central Government.

3. The Convention should be limited to laying down basic principles and should leave it to the national authority to define exactly and in accordance with the legislation in force the terms "building", "civil engineering", "financed" and "subsidised".

4. Where employers' and workers' organisations exist they should be consulted on this matter.

5. In view of its replies to the previous questions the Government does not consider it necessary to give definitions.

#### SWITZERLAND

2. The reply is in the affirmative, subject to the reservations mentioned in the course of the preliminary remarks, as in this instance the State is in a position to lay down the conditions of work by the very fact of its financing or subsidising the works in question. Regarded in the light of this particular consideration, it would seem that in this case the establishment of a shorter working week was likely to be least beset with difficulties. But if the reduction were not effected at the same time on building or civil engineering work undertaken by private persons, it would inevitably lead to difficulties; otherwise, if public works were given out to private contractors, the workers concerned would be governed by two different systems, and this would surely give rise to complications.

3. The reply is in the affirmative.

4. The reply is in the affirmative.

5. The reply is in the negative.

#### UNION OF SOUTH AFRICA

2. Yes, but the scope should also include "building or civil engineering work let to private contractors on contract".

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<sup>1</sup> In the letter transmitting its replies to the Questionnaires issued in preparation for the Twentieth Session of the Conference, the Polish Government makes the following observations:

"The practice of consultation with the employers' and workers' organisations concerned is widely applied in Poland. Such consultations take place not only when legislation is being drafted but also in connection with the application of labour legislation and this is frequently required by law.

"Nevertheless, the Polish Government is of the opinion that if such consultation were to be required on so large a scale as the Questionnaires would seem to make possible even for questions of secondary importance, there would be a risk of imposing by an international Convention a procedure which would be onerous and which might give rise to undesirable difficulties and delays in the effective application of social legislation."

3. The answer is in the affirmative.
4. No; the question of consultation with the employers' and workers' organisations should be left to the discretion of the competent authority.
5. Falls away.

#### UNITED STATES OF AMERICA

2. Yes. In the United States the individual States, as also counties and municipalities, may carry on extensive public works programmes, but for the present it would seem wise to limit the application of the Convention to works carried on or subsidised by the central or Federal Government.

3. To avoid possible serious differences in interpretation, it would not be desirable to leave to the competent authority in each country the precise delimitation of the terms "building or civil engineering".

Public works should be defined as those financed in whole or in part or otherwise subsidised by loans, grants, and/or interest rebates or deferments by central Governments.

The Convention itself, however, should be so phrased as to prevent any abuses through sub-contracting.

4. In all cases where it is necessary to make decisions within a country the competent authority should be required to consult with existing employers' and workers' organisations in order that the Government may have the benefit of their experience and as a protection against improper or unwise decisions.

5. A general statement as to coverage—namely, "building or civil engineering work financed or subsidised by central Governments" (as given in Question 2) should be followed by the phrase "such as" to be followed in turn by a list of the more important types of undertakings. The list used in the proposed draft of the Convention regarding the Reduction of Hours in Building and Civil Engineering Undertakings would seem satisfactory. This list would then be: buildings, railways, tramways, *pipe lines*, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime, or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, waterworks or other similar work, or in the preparation for or laying the foundation of any such work.

6. Do you consider that, whatever method of defining the scope may be adopted, any of the following kinds of work should be excluded?

- (i) Works carried out in time of peace for purposes of national defence.
- (ii) Work on supplies of all kinds for purposes of national defence.
- (iii) Work on supplies for Government departments.

7. (i) If any of the kinds of work indicated in Question 6 are excluded, do you consider that the list of works to be excluded should be determined by the competent authority in each country ?

(ii) Do you further consider that the competent authority should be required to consult with the employers' and workers' organisations concerned, where such exist, before drawing up the list of works to be excluded ?

#### BELGIUM

6. (i) The reply is in the negative.

(ii) The reply is in the negative.

(iii) The reply is in the negative.

7. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

#### BRAZIL

6. (i) The reply is in the affirmative.

(ii) and (iii) The reply is in the negative.

7. (i) This list should be determined by the competent authority in each country.

(ii) The Government of each country should be left entirely free to draw up the list of works to be excluded from the scope of the Convention.

#### CANADA

##### *Province of Manitoba*

6. (i), (ii) and (iii) The reply is in the negative.

7. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

#### CHILE

6. The three kinds of work mentioned in the Questionnaire should be excepted.

7. (i) and (ii) The replies are in the affirmative. The Recommendation suggested in the reply to Question 5 should contain a list of works which might be excluded under the general exceptions set out in Question 6.

#### CUBA

6. The reply is in the negative.

7. None of this work should be excluded.



DENMARK

6. The reply is in the negative.
7. See the reply to Question 6.

FINLAND

6. (i), (ii) and (iii) The replies are in the affirmative.
7. (i) and (ii) The replies are in the affirmative.

FRANCE

6. Whatever the method of defining the scope adopted the Government considers that the competent authority in each country should be authorised to exclude from the scope of the Draft Convention, if it thinks expedient, works carried out in times of peace for purposes of national defence and work on supplies of all kinds for purposes of national defence.

The position is not the same for supplies for Government Departments which are not concerned with national defence. The French regulations in this matter provide for more favourable conditions of employment for persons employed on work of this kind.

7. (i) and (ii) The competent authority in each country is alone qualified to decide what work shall be excluded so far as national defence is concerned. Consultation with the organisations is not necessary.

IRAQ

6. The Government considers that exclusion of the works defined should be provided for only in times of national emergency.

7. (i) Yes, it must be done by each individual country.
- (ii) See the reply to Question 4.

ITALY

6 and 7. The Government does not consider it desirable to exclude from the scope of the proposed Draft Convention any special kinds of work or works of minor importance.

NORWAY

6. The reply is in the negative.
7. No reply is necessary.

POLAND

6. (i) The reply is in the affirmative.
- (ii) The reply is in the affirmative.

(iii) Yes, the manufacture and preparation of supplies for Government departments is carried out by all sorts of industries and could not be subject to the same regulations as apply to public works.

7. (i) The reply is in the affirmative.

(ii) (See footnote on p. 27.)

#### SPAIN

6. The works mentioned in this question should not be excluded as a general rule. It should, however, be permissible, by way of exception, for the competent national authority to make such exceptions, principally as regards national defence.

7. It follows from the reply to the previous question that there would be no need to draw up a list of works to be excluded. In exceptional circumstances, however, the exclusion of a particular kind of work concerned with national defence might be permitted, but not the whole of such work. In these cases the employers' and workers' organisations concerned might be consulted where circumstances permit.

#### SWITZERLAND

6. There seems to be no plausible reason for excluding works carried out in time of peace for purposes of national defence. The same might be said regarding work on supplies of all kinds for purposes of national defence as well as of work on supplies for Government departments, it being understood, of course, that these observations apply only to building or civil engineering works carried out in time of peace. The work executed in industrial establishments should be excluded, as it should be brought under other regulations. Moreover, it might be left to the competent authority to determine whether the Convention is applicable or not to works which have a more or less direct bearing on building or civil engineering work, strictly so called, as is indicated in Question 7.

7. The reply is in the affirmative.

#### UNION OF SOUTH AFRICA

6. (i), (ii) and (iii) No; if the Government is to set an example to private employers, it would appear desirable that works financed by it should not be exempted, and where the works are subsidised or let on contract the reduced number of hours should be one of the terms of subsidy or of the conditions of the contract.

7. Falls away.

#### UNITED STATES OF AMERICA

6. (i) No; except in those instances where the work is done by members of the regular military or naval forces.

(ii) and (iii) This Government believes that the terms of the Convention should be extended to cover the greatest possible volume of

work. Nevertheless it is apparent that the difficulties of enforcement would be increased materially if the reduction of hours were extended to cover work on supplies for national defence and for Government Departments.

(Note. — In the United States, legislation in the form of the Walsh Bill is being considered, requiring observance of N.R.A. code standards in the production of all goods for Government use.)

7. (i) No. If certain kinds of work are excluded as indicated in Question 6 the list of work so excluded should be made a part of the Draft Convention in order that the exemption would be uniformly applied.

8. Do you consider that public works of minor importance should be excluded ?

9. (i) If the reply to Question 8 is in the affirmative, do you consider that the question of what are public works of minor importance should be determined by the competent authority in each country ?

(ii) If so, should the competent authority be required to consult with the employers' and workers' organisations concerned, where such exist, before determining this question ?

#### BELGIUM

8. The reply is in the negative.

9. (i) In the event of the exclusion of public works of minor importance, the reply is in the affirmative.

(ii) The reply is in the affirmative.

#### BRAZIL

8. Yes. In view of the object aimed at by the Draft Convention and especially bearing in mind the fact that it seeks to reduce unemployment by means of a reduction of hours of work, those works should be considered as works of minor importance which employ fewer than five persons.

9. (i) See reply to Question 8.

(ii) Such a procedure presents only advantages.

#### CANADA

##### *Province of Manitoba*

8. The reply is in the negative.

9. The question falls.

#### CHILE

8. The reply is in the affirmative.

9. (i) and (ii) Yes. The Recommendation already mentioned should indicate what is meant by "public works of minor importance".

by giving a definition together with a list of examples which should be as complete as possible.

#### CUBA

8. No. If Governments seriously intend to reduce hours of work to an extent capable of appreciably diminishing unemployment, they should set an example to industrial and commercial employers. It was with that object in view that the Cuban Government, before the publication of the Act regulating wages and salaries, granted twelve weeks' paid leave in cases of maternity to women employees of the State, the provinces and the municipalities.

9. The reply is in the negative.

#### DENMARK

8. The reply is in the negative.

9. See the reply to Question 8.

#### FINLAND

8. The reply is in the affirmative.

9. (i) and (ii) The replies are in the affirmative.

#### FRANCE

8. The reply is in the negative.

9. The question falls.

#### IRAQ

8. The reply is in the negative.

9. The question falls.

#### ITALY

8. See the reply to Questions 6 and 7.

9. See the reply to Questions 6 and 7.

#### NORWAY

8. The reply is in the negative.

9. The question falls.

#### POLAND

8. The reply is in the negative.

9. The question falls.

## SPAIN

8. It would not be desirable to establish different systems according to the importance of the works. It would always be difficult to fix the limit between one category and another and the fixing of the limit would therefore necessarily have to be left to the discretion of the national authority.

9. If a distinction is to be made between different works according to their importance the matter should be left to the national authority which, before making the distinction, should consult the employers' and workers' organisations concerned.

## SWITZERLAND

8 and 9. Public works of minor importance should not be excluded, in order to prevent any attempt to circumvent the Convention by splitting up major works into small parts.

## UNION OF SOUTH AFRICA

8. No; see reply to Question 6 above.

9. Falls away.

## UNITED STATES OF AMERICA

8. No. To exclude public works of minor importance from the terms of the Convention would lessen its effectiveness in furnishing employment and complicate enforcement.

(The N.R.A. found that compliance was more complete and less supervision was required where exceptions were fewest.)

9. The question falls.

10. Do you consider that work connected with the delivery or supply of tools, equipment, machines, materials, etc., for public works should be excluded from the scope of the Draft Convention ?

## BELGIUM

10. The reply is in the affirmative.

## BRAZIL

10. Work connected with the delivery and supply of materials should be excluded from the scope of the Convention.

CANADA

*Province of Manitoba*

10. The reply is in the negative.

CHILE

10. No. The necessity for such an exclusion does not seem very evident since the Draft Convention would apply only to works within its scope and would not be regarded as covering works of the kind mentioned in this question.

CUBA

10. These machines, tools and materials should be included if they are supplied by undertakings dependent in some manner upon the State.

DENMARK

10. The reply is in the affirmative.

FINLAND

10. The reply is in the affirmative.

FRANCE

10. The reply is in the affirmative.

IRAQ

10. The reply is in the negative.

ITALY

10. The Government considers it desirable to exclude supplies from the scope of the Draft Convention. This is an exclusion which is more logical than indispensable in view of the very clear distinction between the conception of "supplies" and the conception of "public works". Serious difficulties might be encountered in the application of regulations covering both supplies and public works.

NORWAY

10. From the title of this Convention it would seem that the undertakings referred to should, as a rule, be excluded. If they are financed by the State, the competent authority should decide in the matter.

POLAND

10. The reply is in the affirmative.

SPAIN

10. There is no occasion to exclude from the application of the basic principle of the Convention work which is directly connected with the carrying out of public works when there is an immediate and direct relation as regards the organisation of the staff employed and the work to be done.

In cases where this direct relationship between the workers employed does not exist the work should not be subject to the application of the general principle, but should be governed by the rules applicable to the industry of which it forms a part.

SWITZERLAND

10. Such work should be excluded.

UNION OF SOUTH AFRICA

10. This will depend on whether the work connected with the delivery or supply of tools, equipment, machines, materials, etc., is an integral part of the "public work" under construction. If so, then it should fall within the scope of the Draft Convention, but if it is such that it falls within the scope of another industry, then the hours of work obtaining in that industry will be applicable.

UNITED STATES OF AMERICA

10. Yes. The Convention should apply only to work at the site.

(Note. — To attempt to carry the provisions of the Convention back to the making of tools and machinery, the quarrying of stone, etc., would be impracticable, except as might be done by other Conventions applicable to the industries concerned. The Walsh Bill, now before Congress, would require the observance of certain labour conditions in the making of all supplies for the Government.)

(b) *As regards the Persons affected*

11. Do you consider that the competent authority in each country should be permitted to exempt from the application of the Draft Convention:

- (a) persons employed in undertakings in which only members of the employer's family are employed; (Art. I, par. 3 (a).)

- (b) persons occupying positions of supervision or management who do not ordinarily perform manual work; (Art. 1, par. 3 (b).)
- (c) persons engaged in technical control of operations who do not ordinarily perform manual work? (Art. 1, par. 3 (b).)

12. Are there any other categories of persons whom you consider the competent authority should be permitted to exempt?

13. Do you consider that the competent authority should be required to consult with the employers' and workers' organisations concerned before exempting any category of persons? (Art. 1, par. 3.)

#### BELGIUM

- 11. (a) The reply is in the affirmative.
- (b) The reply is in the affirmative.
- (c) The reply is in the affirmative.
- 12. The reply is in the negative.
- 13. The reply is in the affirmative.

#### BRAZIL

11. (a), (b) and (c) The reply is in the affirmative.

12. Yes; caretakers of yards, buildings or stores and watchmen on railway lines when they reside in the buildings or premises under their care or in the neighbourhood of the railway lines; persons in charge of stations or workmen employed on shunting work whose presence at the place of work is not continuous.

13. Governments should be at liberty to consult the employers' and workers' organisations concerned if they consider it desirable to do so.

#### CANADA

##### *Province of Manitoba*

- 11. (a), (b) and (c) The reply is in the affirmative.
- 12. The reply is in the negative.
- 13. The reply is in the affirmative.

#### CHILE

- 11. (a), (b) and (c) The replies are in the affirmative.
- 12. The reply is in the negative.

13. Yes. The consultation in this case should consist in the submission to the organisations concerned for their advice of the draft bill or regulations before they are introduced in Parliament or finally approved.



CUBA

11. (a), (b) and (c) The reply is in the affirmative.
12. The reply is in the negative.
13. The reply is in the affirmative.

DENMARK

11. (a), (b) and (c) The reply is in the affirmative.
12. Yes, persons employed in a confidential capacity; see the corresponding exception in the Washington Convention on the eight-hour day.
13. See the reply to Question 4.

FINLAND

11. (a), (b) and (c) The replies are in the affirmative.
12. The reply is in the affirmative.
13. The reply is in the affirmative.

FRANCE

11. (a) and (b) The replies are in the affirmative.  
(c) The only persons who should be excluded from the application of the Draft Convention are those who are in actual charge of the various services of an establishment or undertaking and can therefore be assimilated to the heads of the establishment on whose behalf they are acting. Persons who merely occupy positions of supervision or are engaged in technical control of operations and who are in fact only employees should be subject to the Convention, with the reservation that special exceptions might be provided in their case to meet the requirements of the duties they have to discharge. In any event it would be necessary to include in the Draft Convention very precise definitions of the classes of persons exempted from its application. There is a risk that if all that was included in the Convention were the phrase "persons occupying positions of supervision or management or engaged in technical control of operations", this would be interpreted in very different fashions in national laws and regulations.

12. The reply is in the negative.

13. If the classes of persons exempted are not set out in the Draft Convention itself the competent authority should be required to consult with the employers' and workers' organisations concerned before exempting any category of persons.

IRAQ

11. (a), (b) and (c) The reply is in the affirmative.
12. Such other persons as do not ordinarily perform manual work, e.g. clerical staff, draftsmen and messengers.
13. See reply to Question 4.

### ITALY

11, 12 and 13. The competent authority in each country should be permitted to exclude from the application of the Draft Convention, after consultation with the employers' and workers' organisations concerned:

(a) Persons employed in undertakings in which only members of the employer's family are employed;

(b) Persons occupying positions of supervision or management or engaged in technical control of operations who do not ordinarily perform manual work.

### NORWAY

11. (a) No; members of the family regarded as workers should not be exempted.

(b) The reply is in the affirmative.

(c) The reply is in the affirmative.

12. The reply is in the negative.

13. The reply is in the negative.

### POLAND

11. (a) No, there is no sufficient reason of a social and economic character to justify such an exemption.

(b) The competent authority in each country might be empowered to exempt from the application of the Draft Convention persons occupying positions of management. As regards persons occupying positions of supervision, exemption would be calculated rather to increase unemployment amongst intellectual workers than to contribute to its reduction and should not be allowed.

(c) No, for the same reasons as are indicated in the reply to the previous question.

12. The reply is in the negative.

13. (See the footnote on p. 27.)

### SPAIN

11. (a) Power to make this exemption should be given.

(b) Power to make this exemption should also be given.

(c) The exemption of technicians who do not ordinarily perform manual work should also be permitted.

12. Permission should not be given for the exemption of other categories.

13. The competent authority should, whenever possible, consult beforehand with the employers' and workers' organisations.

### SWITZERLAND

11. (a) The question does not seem to be important in practice; the exemption of family undertakings, on the analogy of other Conventions, should not give rise to any difficulties.

(b) and (c) The exemption would be justified.

12. There is need for exempting other categories of persons, as for instance persons engaged in the housing, catering, transport, nursing and first-aid services provided for workers when the works are situated in remote places. The exemption would also be justified exceptionally in the case of persons engaged in certain kinds of specialised work (miners, divers, etc.); it might be left to the discretion of the competent authority to allow temporary exemptions in such cases.

13. The reply is in the affirmative.

### UNION OF SOUTH AFRICA

11. (a), (b) and (c) The replies are in the affirmative.

12. It does not appear desirable that the Draft Convention should specify categories of persons, but provision should be made for the competent authority to exempt such categories of persons or work as it deems fit.

13. No; in the application of any law, it is essential that the Governmental Authority should, within specified limitations, have the unrestricted right to use its own discretion regarding the application. Therefore, the competent authority should have the right to use its own discretion regarding consultation with the employers' and workers' organisations.

### UNITED STATES OF AMERICA

11. (a) No. In the case of public works there would seem to be no justification for the exemption of family undertakings. In the case of the proposed Convention for private building construction, such exemption may be justified on the ground that the family may be building, say, a house for their own use. This situation would not arise in public construction undertakings.

(b) The exemption of "persons occupying positions of supervision or management who do not ordinarily perform manual work" seems justified and desirable, provided the term "supervision" is strictly construed in the Convention.

(c) Doubt exists regarding the exemption of "persons engaged in technical control of operations who do not ordinarily perform manual work." The only reason for their exemption would be that such persons are ordinarily few in number and may be difficult to replace. If the exemption is allowed, the definition should be carefully drawn so that the phrase "in technical control of operations" could not be interpreted to include persons whose positions do not immediately affect production, and among whom there is extensive unemployment in the United States.

12. The reply is in the negative.

(Note. — Employers' delegates at the 1935 Conference urged the exemption of skilled workers when there was not a surplus supply of such workers in a particular locality. Such an exemption, however, would be subject to serious abuses and should not be approved.

Under the administration of the P.W.A. a general thirty-hour limit was established and although exception was permitted in case of remotely located works, in no case was the upper limit to exceed forty hours.)

13. The reply is in the affirmative.

(Note. — This is a desirable procedure in order that the points of view of employers and workers might be given expression.)

### DEFINITION OF HOURS OF WORK

14. Do you consider that for the purposes of the Draft Convention "hours of work" should be defined as meaning the time during which the persons employed are at the disposal of the employer, not including rest periods during which they are not at his disposal? (*Art. 2, par. 4.*)

#### BELGIUM

14. The reply is in the affirmative.

#### BRAZIL

14. Yes, this definition is satisfactory.

#### CANADA

*Province of Manitoba*

14. The reply is in the affirmative.

#### CHILE

14. The reply is in the affirmative.

#### CUBA

14. The reply is in the affirmative.

#### DENMARK

14. The reply is in the affirmative.

FINLAND

14. The reply is in the affirmative.

FRANCE

14. The reply is in the affirmative.

IRAQ

14. The reply is in the affirmative.

ITALY

14. The Government considers that for the purposes of the Draft Convention "hours of work" should be defined as meaning the time during which the persons employed are at the disposal of the employer.

NORWAY

14. The reply is in the affirmative.

POLAND

14. The reply is in the affirmative.

SPAIN

14. The reply is in the affirmative. Account should be taken only of the time during which the persons employed are at the disposal of the employer.

SWITZERLAND

14. The reply is in the affirmative, but it should be observed that special arrangements should be permitted so that in the case of workers living at a distance from their place of work the time spent in travelling to and fro would be taken into consideration in reckoning the hours of work.

UNION OF SOUTH AFRICA

14. The reply is in the affirmative.

UNITED STATES OF AMERICA

14. Rest periods (other than meal periods) are not customary in American public works. Except in instances of very long hours of labour (which are excluded under the terms of the proposed Convention)

rest periods would seem necessary only in case of exceptionally fatiguing operations. In such instances they would be in the interest of efficient output, and should therefore be paid for by the employer. To permit of the establishing of unpaid rest periods by the employer would make possible serious abuses through the undue spreading out of the period of daily work.

## LIMITATION OF HOURS OF WORK

### (a) *Weekly Limits*

15. (i) Do you consider that the Draft Convention should fix the limit of hours of work, as a general rule, at forty per week ?  
(Art. 2, par. 1.)

(ii) If the reply to (i) is in the negative, what other limit do you propose ?

### BELGIUM

15. (i) The reply is in the affirmative.

### BRAZIL

15. (i) The Government refrains from replying to this question for the reasons indicated in the reply to Question 1.

### CANADA

#### *Province of Manitoba*

15. (i) The reply is in the affirmative.

### CHILE

15. (i) Yes; but the proposal indicated in the reply to Question 1 is preferred.

### CUBA

15. The reply is in the affirmative.

### DENMARK

15. The reply is in the affirmative.

### FINLAND

15. (i) and (ii) See the reply to Question 1.

FRANCE

15. (i) The reply is in the affirmative.

IRAQ

15. (i) and (ii) See reply to Question 1.

ITALY

15. The weekly limit of hours of work should be forty.

NORWAY

15. The reply is in the affirmative.

POLAND

15. (i) The reply is in the affirmative.

SPAIN

15. The reply, in conformity with the general principle, is in the affirmative.

SWITZERLAND

15. The forty-hour limit is undoubtedly narrow, and, therefore, provision should be made for permitting the full utilisation of the forty hours in case of loss of time due to inclement weather. Where there are special circumstances, as for instance at high altitudes or in the event of a calamity happening, a forty-hour week would appear to be too short, notwithstanding all the exceptions contemplated. Whether it should not be left to the competent authority to extend the hours of work up to forty-eight, in case of urgent necessity, is therefore a question which should be considered.

UNION OF SOUTH AFRICA

15. (i) Yes, as a general rule.  
(ii) Falls away.

UNITED STATES OF AMERICA

15. (i) Yes, this would be in keeping with the general forty-hour Draft Convention of 1935, and with the whole spirit of the proposed reform.

- (ii) As the preceding question was answered in the affirmative, the question is not applicable.

16. (i) Do you consider that in the case of persons who work in successive shifts at processes required by the nature of the process to be carried on without a break at any time of the day, night or week, the Draft Convention should fix the limit of hours of work at forty-two per week ?  
(Art. 2, par. 2.)

(ii) If the reply to (i) is in the negative, what other limit do you propose ?

17. (i) Do you consider that the competent authority in each country should determine what are the continuous processes referred to in Question 16 in respect of which the forty-two-hour week should apply ?

(ii) If the reply to (i) is in the negative, what processes do you consider should be specified in the Draft Convention as continuous processes for this purpose ?

18. Do you consider that the competent authority should be required to consult with the employers' and workers' organisations concerned, where such exist, before determining what are continuous processes ?

#### BELGIUM

16. (i) The reply is in the affirmative.

17. (i) The reply is in the affirmative.

18. The reply is in the affirmative.

#### BRAZIL

16. (i) The reply is in the affirmative.

17. (i) The competent authority in each country should determine what are the continuous processes referred to in Question 16.

(ii) It should be left to each Government to specify the continuous processes in respect of which the limit of forty-two hours should apply.

18. The Governments should be at liberty to consult the employers' and workers' organisations concerned if they consider it advisable to do so.

#### CANADA

##### *Province of Manitoba*

16. (i) The reply is in the affirmative.

17. (i) The reply is in the affirmative.

18. The reply is in the affirmative.

#### CHILE

16. The reply is in the affirmative.

17. (i) Yes, after consultation with the employers' and workers' organisations concerned.



(ii) See the previous reply. The Recommendation mentioned in the replies to previous questions should, however, specify the processes to be regarded as continuous processes in respect of which the exceptional weekly limit of forty-two hours should apply.

18. The reply is in the affirmative.

#### CUBA

16. The reply is in the affirmative.

17. The reply is in the affirmative.

18. The reply is in the affirmative.

#### DENMARK

16. The reply is in the affirmative.

17. (i) and (ii) The reply is in the affirmative.

18. See the reply to Question 4.

#### FINLAND

16. See the reply to Question 1.

17. The reply is in the affirmative.

18. The reply is in the affirmative.

#### FRANCE

16. (i) The Washington Convention on the eight-hour day provides that the limit of hours of work may be exceeded in the case of processes which are required to be carried on continuously by a succession of shifts, subject to the condition that the working hours shall not exceed fifty-six in the week on the average. A similar provision might be included in the present Convention, the maximum of fifty-six hours being, of course, reduced. It might be fixed at forty-two hours.

17. (i) The reply is in the affirmative. In order, however, to make it clear that the expression "continuous processes" should not be applied to processes which, though they are carried on day and night, are nevertheless interrupted at the end of a week, the word "necessarily" should be inserted in the definition of continuous processes as follows: "Persons who work in successive shifts at processes necessarily required by the nature of the process to be carried on without a break at any time of the day, night or week." It is pointed out that this stipulation is laid down in the Draft Convention concerning automatic sheet-glass works which applies to persons working in "necessarily continuous operations".

18. The reply is in the affirmative.

'IRAQ

16, 17 and 18. The Government holds no strong views on this subject.

ITALY

16, 17 and 18. The Government is of opinion that in the case of persons who work at processes which are necessarily continuous, the weekly limit of forty hours should be extended to forty-two hours. The competent authority in each country should determine, after consultation with the employers' and workers' organisations, what are the processes which should, for this purpose, be regarded as continuous.

NORWAY

16. The reply is in the affirmative. But continuous operations are rare in this kind of work.

17. The reply is in the affirmative.

18. No; as the competent authority looks for complete data before taking any decision.

POLAND

16. (i) The reply is in the affirmative.

17. (i) The reply is in the affirmative.

18. (See the footnote on p. 27.)

SPAIN

16. The reply is in the affirmative, so that the change over of shifts may be facilitated.

17. The competent authority in each country should determine what are the continuous processes to which the limit mentioned in the previous questions should be applied.

18. The employers' and workers' organisations should, whenever possible, be consulted beforehand.

SWITZERLAND

16. The reply is in the affirmative on condition that in this instance also it is left to the discretion of the competent authority to extend, in exceptional circumstances, the hours of work up to forty-eight.

17 and 18. The determination of what are the processes in question should be left to national laws or regulations. The Government agrees as regards consultation with the organisations of employers and workers concerned.

UNION OF SOUTH AFRICA

16. (i) The reply is in the affirmative.

17. The reply is in the affirmative.

18. No; see reply to Question 13.

UNITED STATES OF AMERICA

16. (i) The argument in favour of permitting a forty-two-hour week for persons engaged in absolutely continuous processes is that a forty-two-hour schedule is better fitted to a distribution of work in such processes. For instance the forty-two-hour week would fit in well with a four-shift, six-hour day, seven-day-week schedule. This, however, does not seem to justify raising the limit to forty-two hours, as the desired object could be obtained by the provision of adequate relief shifts. In general, the principle should be observed that while certain processes may necessarily be continuous, the employment of an individual should not be continuous, and a seven-day week should be discouraged. Also, any exception to the forty-hour limit in the case of individuals would greatly increase the difficulty of enforcement.

(ii) The limit should be forty hours per week in continuous as well as non-continuous operations.

17. (i) and (ii) As the forty-two-hour limit is opposed, this enquiry does not apply.

18. As the forty-two-hour week is opposed, this question does not apply.

19. Do you consider that the Draft Convention should permit of the limit of hours of work being applied as an average calculated over a period longer than one week ?  
(*Art. 2, pars. 1 and 2.*)

Please reply separately as regards:

(a) workers on non-continuous processes (40-hour limit);

b) workers on continuous processes (42-hour limit).

20. (i) If averaging over a period of weeks is permitted, do you consider that the number of weeks over which the calculation may be made should be determined by the competent authority in each country ?  
(*Art. 2, par. 3.*)

(ii) If the reply to (i) is in the affirmative, do you consider that the competent authority should consult the employers' and workers' organisations concerned, where such exist, before determining the number of weeks over which the calculation may be made ? (*Art. 2, par. 3.*)

(iii) If the reply to (i) is in the negative, what number of weeks do you consider should be laid down in the Draft Convention ?

21. (i) Do you consider that, if averaging is permitted, a limit should be fixed to the number of hours to be worked in each week of the averaging period ?

(ii) If the reply to (i) is in the affirmative, do you consider that the number of hours to be worked in each week should be fixed by the same procedure as the number of weeks in the averaging period ?

#### BELGIUM

19. The reply is in the affirmative.

(a) The reply is in the affirmative.

(b) The reply is in the affirmative.

20. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

21. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

#### BRAZIL

19. As this is a principle which has already been accepted, the Government sees no reason for any modification.

20. (i), (ii) and (iii) See reply to Question 19.

21. (i) Yes. In every case a limit should be fixed to the number of hours to be worked in each week.

(ii) The reply is in the affirmative.

#### CANADA

##### *Province of Manitoba*

19. The reply is in the negative.

(a) and (b) The reply is in the negative.

20. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

21. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

#### CHILE

19. Yes, in exceptional cases.

(a) As a general rule, no.

(b) The reply is in the affirmative.

20. (i) The reply is in the affirmative.  
(ii) The reply is in the affirmative.  
(iii) Notwithstanding the replies to the previous questions, the number of weeks for which the average might be calculated should be given in the Recommendation. The period might be three weeks.
21. (i) The reply is in the affirmative.  
(ii) Yes. The Recommendation might suggest the maximum number of hours to be worked in each week of the averaging period.

#### CUBA

19. The reply is in the negative.  
20. The reply is in the negative.  
21. The reply is in the negative.

#### DENMARK

19. (a) and (b) The reply is in the affirmative.
20. (i) Yes; the Convention should, however, fix the maximum number of weeks over which the hours of work will be calculated and this maximum might reasonably be fixed at six weeks.  
(ii) See the reply to Question 4.  
(iii) See the reply to (i).
21. (i) No, the daily and weekly limits fixed by the Conventions already adopted concerning the hours of work in industry, coal mines, and commerce and offices should, however, be respected.  
(ii) The reply is in the affirmative.

#### FINLAND

19. (a) and (b) The replies are in the affirmative.  
20. (i) and (ii) The replies are in the affirmative.  
21. (i) and (ii) The replies are in the affirmative.

#### FRANCE

19. (a) and (b) The Government considers that the forty-hour week should be adopted as the general rule. This limit should not be an average, but should be an absolute limit. Averaging should be allowed only by way of exception for classes of establishments or works in which work has to be carried on over a period exceeding the daily or weekly limit fixed.
20. (i) The Government considers that if averaging of hours of work over a period is permitted the number of weeks in this period should be laid down by the Draft Convention.

(iii) The Government considers that the number of weeks should be fixed at four.

21. (i) and (ii) The reply is in the affirmative.

#### IRAQ

19, 20 and 21. See reply to Questions 16, 17, and 18.

#### ITALY

19, 20 and 21. The Government considers it desirable to permit the competent authorities, after consultation with the industrial organisations concerned, to calculate the limit of hours of work as an average over a specified number of weeks both as regards continuous processes and processes which should not be regarded as continuous.

The maximum number of hours of work to be worked in each week of the averaging period should be fixed by the same procedure.

#### NORWAY

19. The reply is in the affirmative in respect of continuous as well as non-continuous processes.

20. The reply is in the affirmative. In the case of non-continuous processes the averaging period should be four to six weeks. The workers' organisations should be consulted before taking a decision.

21. The reply is in the affirmative. The limit should be fixed by the competent authority.

#### POLAND

19. (a) The reply is in the affirmative.

(b) The reply is in the affirmative.

20. (i) The reply is in the affirmative.

(ii) (See the footnote on p. 27.)

21. (i) Yes, the maximum number of hours of work in each week should be forty-eight.

#### SPAIN

19. Calculation of the weekly hours of work as an average over a period longer than one week should be permitted in both the cases mentioned in the question.

20. The number of weeks in the period should be determined by the competent authority in each country, which should consult the employers' and workers' organisations concerned.

21. The maximum hours of work in each week of the period over which the average may be calculated should be fixed, and this should be done by the same procedure as for fixing the number of weeks in the period.

### SWITZERLAND

19. It should in all cases be permissible to calculate the hours of work as an average over a period longer than one week.

20. The number of weeks in the period should be left to be fixed by national laws or regulations, which should provide for consultation with the employers' and workers' organisations.

21. The question whether a limit to the number of hours of work in a week should be fixed and, if so, what the maximum should be, should be left to national laws or regulations. The procedure should be the same as for the case dealt with in Question 20.

### UNION OF SOUTH AFRICA

19. (a) and (b) Yes, but the calculation should not be averaged over a period of longer than three weeks.

20. (i) Yes, provided that such period is not in any case longer than three weeks.

(ii) Consultation should not be made compulsory but should be left to the discretion of the competent authority.

21. (i) No; conditions vary so considerably that what would be reasonable in one case might be excessive in another.

### UNITED STATES OF AMERICA

19. Experience in the United States under the N.R.A. codes showed that the practice of averaging is easily abused, and may destroy all the benefits to be expected from a forty-hour week. The longer the period of averaging, the greater the danger of abuse. Therefore, if averaging is permitted the averaging period should be very short, certainly not more than four weeks. This is sufficiently long to meet the adjustments in working time considered desirable in the normal operation of a plant. It is not long enough, and should not be long enough, to take care of major seasonal changes in demand. Such seasonal changes should be taken care of by the provisions (see Question 25 below) for a certain number of hours of overtime each year *with pay at overtime rates*.

(Note. — In early N.R.A. codes provisions were approved permitting the averaging of hours over periods of as long as six months to a year. Widespread abuses developed and the purposes of the codes were defeated. For example, a man might be employed for the maximum number of hours within a short, busy season and then be laid off, or an employee might be required to work extra time in a rush period thus making it unnecessary to employ extra help and keeping the volume of employment at a minimum. Influenced by such experiences the N.R.A. moved to secure safeguards against abuses by prescribing an upper limit beyond which no employee might work in a day or week regardless of the averaging provisions. There was also a tendency to shorten the averaging period to four or six weeks. Finally, in July 1934, an admini-

strative order was issued declaring that averaging provisions would no longer be written into codes, but that flexibility would be made possible where necessary because of seasonal or other needs, by providing a daily or weekly "tolerance" in hours for a given number of days or weeks in the year with *provisions for overtime pay* for the hours of tolerance. It was added that where a specific tolerance would not be sufficient (emergency work) unlimited hours would be permitted but with overtime pay. While specific tolerances were granted in over two hundred codes, the system of payment for the hours of tolerance at overtime rates was not applied in many of the major industries.)

20. For the reasons stated in Question 19, the period of averaging, if averaging is allowed at all, should be laid down in the Draft Convention and the period should be short, certainly not more than four weeks.

The competent authority should not be allowed to approve any period of averaging (not in excess of four weeks) which is longer than that permitted in collective agreements entered into by employers and employees and affecting one-half or more of the workers in the industry.

21. (i) Yes. The maximum limit should be forty-eight hours per week.

(ii) Yes. It should be fixed in the Draft Convention.

#### (b) *Daily Limit*

22. (i) Do you consider it desirable that, in addition to a weekly limit, a daily limit of hours of work should also be fixed ?

(ii) If the reply to (i) is in the affirmative, what do you suggest should be the daily limit ?

#### BELGIUM

22. (i) The reply is in the affirmative.

(ii) Eight hours.

#### BRAZIL

22. (i) A daily limit of hours of work should be fixed.

(ii) The Government considers that the daily limit should be fixed at seven hours.

#### CANADA

##### *Province of Manitoba*

22. (i) The reply is in the affirmative.

(ii) Eight hours.

#### CHILE

22. (i) The reply is in the affirmative.

(ii) The limit should be that which would give a working week of forty hours or forty-four hours, according to whether the weekly maximum adopted is that indicated in the Questionnaire or that actually in force in Chile, the week being divided into six equal daily periods corresponding to the normal number of working days in each week.



CUBA

22. The reply is in the affirmative.

DENMARK

22. (i) No. The daily limits fixed by the Conventions already adopted concerning the hours of work in industry, coal mines and commerce and offices should, however, be respected.

(ii) See the reply to (i).

FINLAND

22. (i) The reply is in the negative.

FRANCE

22. (i) and (ii) The Government considers that it is necessary to include in the Draft Convention a daily limit of hours of work. This limit might be eight hours a day.

IRAQ

22. (i) The reply is in the affirmative.

(ii) A daily limit of eight hours.

ITALY

22. The Government considers it desirable that the Draft Convention should fix a daily limit of eight hours. It should be permissible, provided the weekly limit is respected, for the daily limit to be exceeded in the case of persons engaged on continuous processes. The limits and the conditions of this excess should be fixed by the competent authority in each country after consultation with the industrial organisations concerned.

NORWAY

22. Yes. The Government suggests that the daily limit be fixed at eight hours.

POLAND

22. (i) The reply is in the affirmative.

(ii) Eight hours.

SPAIN

22. A daily limit should be fixed.

SWITZERLAND

22. A daily limit might be accepted as a general rule and fixed at ten hours, on condition that it would be permissible to exceed it in case of urgent necessity.

UNION OF SOUTH AFRICA

22. (i) The reply is in the affirmative.  
(ii) Eight hours, as laid down in the Washington Hours Convention, No. 1 of 1919.

UNITED STATES OF AMERICA

22. (i) and (ii) Yes. There should be fixed a daily limit in the Draft Convention itself and this limit should be eight hours.

(Note. — Consideration, however, might be given to the possibility of a maximum nine-hour day in the four summer months in localities and on processes where climatic conditions may affect the possibilities of regular working, provided that overtime rates are paid after eight hours.)

23. (i) If a daily limit is fixed, do you consider it should be permissible, provided the weekly limit is respected, for the daily limit to be exceeded in the case of persons engaged on continuous processes as indicated in Question 16 ?

(ii) In what other cases, if any, do you consider it should be permissible to exceed the daily limit ?

24. (i) If hours in excess of the daily limit are permitted, do you consider it desirable that the maximum time by which the limit may be exceeded should be fixed ?

(ii) Do you consider that this maximum excess should be fixed in the Draft Convention, and if so, what do you suggest it should be ?

(iii) If the reply to (ii) is in the negative, do you consider that the competent authority in each country should consult with the employers' and workers' organisations concerned, where such exist, before fixing the maximum excess ?

25. (i) Do you consider that the permission of the competent authority should be required for the working of hours in excess of the daily limit ?

(ii) Do you consider that before giving such permission the competent authority should consult with the employers' and workers' organisations concerned, where such exist ?

BELGIUM

23. The reply is in the negative.

24. (i) The reply is in the affirmative.

(ii) Nine hours a day.

25. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

BRAZIL

23. (i) Yes, it should be made possible to exceed the daily limit provided the weekly limit is respected.

(ii) In the case of *force majeure* or to avoid poor technical results from work already begun.

24. (i) Yes, the maximum time should be fixed by which the limit may be exceeded.

(ii) Yes. The Government considers that a maximum of two hours a day should be sufficient to cover all needs.

25. (i) The heads of undertakings should inform the competent authority without delay. Should the Governments consider it advisable, the employers' and workers' organisations concerned could be consulted on any point requiring explanation.

(ii) See reply to (i).

CANADA

*Province of Manitoba*

23. (i) The reply is in the affirmative.

(ii) In real emergencies.

24. (i) The reply is in the affirmative.

(ii) Yes, but not more than three hours in any one day.

25. (i) The reply is in the affirmative.

(ii) Not for individual permits. Regulations governing issuance of permits should be drawn up in co-operation with employers' and workers' organisations, where such exist.

CHILE

23. (i) Yes, it being understood that the daily limit might be exceeded in proportion to the exceptional weekly limit provided for in the case of continuous processes.

(ii) In the cases provided for in Articles 2 (b), 3 and 5 of the Convention limiting hours of work in industrial undertakings to eight in the day and forty-eight in the week.

24. (i) The reply is in the affirmative.

(ii) No. The Recommendation might lay down a maximum of two hours.

(iii) Yes. In replying to this question it is assumed that it would apply not only to the continuous processes mentioned in Question 23, but to all cases. The Government also points out that its reference in its reply to Question 23 (ii) is considered to be applicable to work which is not necessarily continuous.

25. (i) Yes. The permission should be stated in the contract of employment, which should specify the cases in which the normal daily limit may be exceeded, subject to those cases being among those provided for by the national laws or regulations.

(ii) The consultation might take place before the promulgation of the laws or regulations specifying the cases in which the normal daily limit may be exceeded. It would make the procedure too complicated if consultation were required before permission were given for each individual contract providing for the normal daily limit to be exceeded.

#### CUBA

23. Yes, in the cases indicated in Question 26.

24. Yes, a maximum of eight hours.

25. Yes, after consultation with or at the suggestion of those concerned.

#### DENMARK

23, 24 and 25. See the reply to Question 22.

#### FINLAND

23. (i) The reply is in the affirmative.

(ii) The decision as to other cases should be left to the competent authority.

24. (i) and (ii) See the reply to Question 23 (ii).

(iii) The reply is in the affirmative.

25. (i) See the reply to Question 23 (ii).

(ii) The reply is in the affirmative.

#### FRANCE

23. (i) and (ii) It is not clear why it should be necessary to exceed the limit in the case of processes which are necessarily continuous and therefore carried on by successive shifts.

24. (i) (ii) and (iii) The Government considers that the Draft Convention might allow the daily limit to be exceeded provided that the weekly limit is respected. The maximum excess over the daily limit might be fixed at one hour. This should be subject to authorisation by the competent authority after consultation with representatives of the employers and workers concerned.

25. (i) The reply is in the affirmative if the working of hours in excess of the daily limit is allowed.

(ii) The reply is in the affirmative.

‘IRAQ

23, 24 and 25. The questions involved should be optional for individual Governments.

ITALY

23, 24 and 25. See the reply to Question 22.

NORWAY

23. (i) The reply is in the affirmative.

(ii) In seasonal establishments and other undertakings in which irregularity is due to the nature of the work.

24. (i) The reply is in the affirmative.

(ii) and (iii) The maximum number of hours of work should be fixed by the competent authority after consultation with the employers' and workers' organisations concerned.

25. Yes; after consultation with the employers' and workers' organisations concerned.

POLAND

23. (i) No, except in order to allow of the periodical change-over of shifts (see reply to Question 28 (a)).

24. The maximum time by which the limit may be exceeded should be fixed by the competent authority in each country.

25. (i) No, see the reply to Question 23 (i).

SPAIN

23. It should be permissible for the daily limit to be exceeded in the case indicated in the question and also in exceptional circumstances for which the national laws and regulations on hours of work make a similar provision, provided that the number of hours in excess of the limit in no case exceeds the maximum fixed by law.

24. It is not necessary for this maximum to be fixed in the Draft Convention if reference is made to the provisions of the national legislation. If no maximum is fixed by national law the employers' and workers' organisations concerned should be consulted.

25. The permission of the competent authority should be required and so far as possible this should be given only after consultation with the employers' and workers' organisations concerned, except in cases of extreme urgency where the competent authority would clearly not have time to proceed to such consultation.

SWITZERLAND

23. The conditions under which it would be permissible to exceed the daily limit fixed by national laws or regulations should be laid down in a very general way and as widely as possible in order to allow for unforeseen situations; an enumeration of particular cases in which it would be permissible to exceed this limit is not desirable.

24. No such maximum should be fixed in the Draft Convention, and it should be left to national laws or regulations to deal with this point.

25. It is not desirable to make it obligatory to obtain such permission, since the circumstances requiring the working of overtime are scarcely to be foreseen; on the other hand, it might perhaps be advisable to require notification to the authorities concerned, if possible in advance, but at any rate after the event, of any overtime worked, in order to enable them to ascertain, if need be, whether it was justified.

UNION OF SOUTH AFRICA

23. (i) The reply is in the affirmative.

(ii) Provision should be made in the Draft Convention for the competent authority to exceed the daily limit in undefined "exceptional circumstances".

24. (i) and (ii) Provision should be made in the Draft Convention for the competent authority to allow the daily limit to be exceeded, but the question of a maximum should be left to its discretion.

(iii) No; consultation should be left to the discretion of the competent authority.

25. (i) No; the right to grant permission should be in the hands of an executive nominee of the competent authority (e.g. a Minister or Department of State).

(ii) No; consultation should be left to the discretion of the competent authority.

UNITED STATES OF AMERICA

23. (i) As the forty-two-hour week on continuous processes is opposed, this question does not apply.

(ii) No exception to the eight-hour daily limit should be permitted, except with pay at overtime rates and with the restrictions upon the amount of permissible overtime stated in the answer to Question 31.

24. As working time in excess of the eight-hour daily limit is opposed this question does not apply. There should be no exception to the eight-hour daily limit, except with extra overtime pay as explained in the answer to Question 31.

25. As working time in excess of the eight-hour daily limit is opposed, this question does not apply. There should be no exception to the eight-hour daily limit, except with extra overtime pay as explained in the answer to Question 31.

## EXCEPTIONS

26. (i) Do you consider that the Draft Convention should provide that the limits of hours prescribed may be exceeded:

(a) in the case of persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking;

(Art. 3, par. 1 (a).)

(b) in the case of persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls?

(Art. 3, par. 1 (b).)

(ii) Do you consider that in these cases the maximum number of hours that may be worked should be determined by regulations made by the competent authority in each country?

(Art. 3, par. 2.)

## BELGIUM

26. (i) (a) and (b) The replies are in the affirmative.

(ii) The reply is in the affirmative.

## BRAZIL

26. (i) (a) and (b) The reply is in the affirmative.

(ii) Yes; in the cases mentioned the maximum number of hours that may be worked should be determined by regulations made by the competent authority of each country.

## CANADA

### *Province of Manitoba*

26. (i) (a) and (b) The reply is in the affirmative.

(ii) The reply is in the affirmative.

## CHILE

26. (i) (a) and (b) The replies are in the affirmative.

(ii) The reply is in the affirmative.

## CUBA

26. Yes, but they should not exceed forty-two hours a week or eight hours a day. This maximum should be laid down in the Convention itself.

DENMARK

26. (i) (a) and (b) The reply is in the affirmative.  
(ii) The reply is in the affirmative.

FINLAND

26. (i) and (ii) The replies are in the affirmative.

FRANCE

26. (i) and (ii) The replies are in the affirmative.

IRAQ

26. (i) (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.  
(ii) The reply is in the affirmative.

ITALY

26. The Government is of opinion that exceptions to the principle of forty hours should be permitted only in quite exceptional cases. It considers, however, that the Draft Convention should provide that the limits of hours prescribed may be exceeded in the case of persons employed on work such as is indicated in paragraphs (a) and (b). The competent authority should fix the maximum number of hours that may be worked in these cases.

NORWAY

26. (i) (a) and (b) The reply is in the affirmative.  
(ii) The reply is in the affirmative.

POLAND

26. (i) (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.  
(ii) The reply is in the affirmative.

SPAIN

26. (i) Provision should be made for exceptions from the general principle in the cases mentioned in the question.  
(ii) The competent national authority should, however, fix the maximum number of hours of work according to the nature of the case.



SWITZERLAND

26. The reply is in the affirmative in principle, on condition that the maximum number of hours may be fixed in the permits granted in individual cases, instead of by regulations. There may also be cases in which it may be desirable to fix the minimum rest period rather than the maximum overtime.

UNION OF SOUTH AFRICA

26. (i) (a) If the preparatory or complementary work is an integral part of the "public work" under construction, then the same conditions should apply as obtain in the case of the "public work" in question. But if the work is such that it falls within the scope of another industry, then the hours of work applicable in that industry should obtain.

(b) This type of case should be provided for in the Article permitting the competent authority to grant exemption at its discretion.

(ii) Yes, provided the Draft Convention lays down that regulations *may* (not "should") be made by the competent authority.

UNITED STATES OF AMERICA

26. (i) (a) These special cases should be taken care of through the provision for overtime work, with extra pay, as described in the answer to Question 31.

(b) No. The fact that a worker is "on the job" and is at the disposal of the employer is the only possible test. The fact that he may be inactive part of the time does not justify extending his hours of work.

(ii) If any such exceptions should be allowed, then the amount of excess time permitted in these cases might be left to the determination of the competent authority in each country. But, as noted above, these exceptions, especially in the case of "inactive workers", are themselves undesirable.

27. Do you consider that the Draft Convention should provide that the limits of hours prescribed may be exceeded, so far as may be necessary to avoid serious interference with the ordinary working of the undertaking, in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure* ? (Art. 4 (a).)

BELGIUM

27. The reply is in the affirmative.

BRAZIL

27. See reply to Question 23 (ii).

CANADA

*Province of Manitoba*

27. The reply is in the affirmative.

CHILE

27. The reply is in the affirmative.

CUBA

27. The reply is in the affirmative.

DENMARK

27. The reply is in the affirmative.

FINLAND

27. The reply is in the affirmative.

FRANCE

27. The reply is in the affirmative.

IRAQ

27. The reply is in the affirmative.

ITALY

27. The Draft Convention should provide that the limits of hours prescribed may be exceeded: to avoid serious interference with the ordinary working of the undertaking; to avoid or prevent an impending loss; in case of urgent work to be done to machinery or plant; in case of *force majeure*; to allow of the periodical change-over of shifts; to make good the unforeseen absence of one or more members of a shift; or when it is impossible for technical reasons to interrupt the work of a shift.

NORWAY

27. The reply is in the affirmative.

POLAND

27. The reply is in the affirmative.

SPAIN

27. Provision should be made for allowing the prescribed limits to be exceeded in the case mentioned in the question.

SWITZERLAND

27. The reply is in the affirmative. See the considerations set forth above. The regulations should be as flexible as possible.

UNION OF SOUTH AFRICA

27. Provision should be made for the competent authority to permit the prescribed limits of hours to be exceeded in exceptional cases, at its discretion. Cases such as those specified would then be covered.

UNITED STATES OF AMERICA

27. In all cases of acute emergency, the management should have the right to work the necessary number of hours to meet the emergency. Such excess hours should be paid for at overtime rates but not regarded as part of the overtime allowed, as described in the answer to Question 31.

28. (i) Do you consider that the Draft Convention should provide that the limits of hours prescribed may be exceeded in any, and if so which, of the following cases:

- (a) To allow of the periodical change-over of shifts;
- (b) To make good the unforeseen absence of one or more members of a shift; (Art. 4 (b).)
- (c) To allow of the completion of an operation which lasts longer than the normal duration of a shift or cannot for technical reasons be interrupted at will and for which the presence of particular persons is necessary?

(ii) What restrictions, if any, do you consider should be imposed on the working of longer hours in these cases?

BELGIUM

28. (i) (a) The reply is in the affirmative.

(b) The reply is in the affirmative.

(c) The reply is in the affirmative.

(ii) It should not be made possible for hours of work to exceed an absolute maximum of ten a day and, moreover, the overtime worked should be compensated by time off of the same duration granted within a relatively short time.

BRAZIL

28. (i) (a), (b) and (c) The reply is in the affirmative.

(ii) In view of the fact that the Convention in question aims at the reduction of hours of work in a specified category of employment as a remedy for unemployment, it should reduce to an indispensable minimum the exceptions to the general principle of a weekly limit of forty or forty-two hours.

CANADA

*Province of Manitoba*

28. (i) (a) The reply is in the negative.

(b) and (c) The reply is in the affirmative.

(ii) Extra pay.

CHILE

28. (i) (a), (b) and (c) The replies are in the affirmative.

(ii) The Draft Convention should stipulate that the maximum prolongation should be fixed by legislation and the Recommendation might fix a figure for this maximum.

CUBA

28. Yes. It should be laid down in the Convention that these exceptions are of a temporary nature and that the cases for which they are granted could not have been foreseen.

DENMARK

28. (i) (a), (b) and (c) The reply is in the affirmative.

(ii) Restrictions should be made by provisions similar to those incorporated in the last paragraph of Article 6 of the Washington Convention.

FINLAND

28. (i) (a), (b) and (c) The replies are in the affirmative.

(ii) This matter should be left to the competent authority in each country.

FRANCE

28. (i) (a), (b), (c) The replies are in the affirmative.

In case (a), a number of hours not exceeding one-half of the normal daily hours of work.

In case (b), a number of hours equal to the period of absence.

In case (c), two hours as a maximum.

IRAQ

28. In principle, no in all cases, but a provision permitting individual Governments to control the matter by special regulations should be considered.

ITALY

28. See the reply to Question 27.

NORWAY

28. (i) (a), (b) and (c) The reply is in the affirmative.  
(ii) No restrictions should be stipulated in the Convention.

POLAND

28. (i) (a) The reply is in the affirmative.  
(b) The reply is in the negative.  
(c) The reply is in the affirmative.  
(ii) Any cases where longer hours are worked under (c) should be notified as soon as possible to the competent authority (labour inspection service).

SPAIN

28. Provision should be made for allowing the limits of hours prescribed to be exceeded in the cases mentioned, provided that the maximum limits laid down for exceptional cases are not exceeded and that appropriate compensation is given to the workers whose hours of work are prolonged.

SWITZERLAND

28. The reply is in the affirmative, but it should be left to the national laws or regulations to lay down the desired restrictions.

UNION OF SOUTH AFRICA

28. (i) See reply to Question 27.  
(ii) The right to impose restrictions should be left to the competent authority.

UNITED STATES OF AMERICA

28. These special cases should be taken care of through the provision for overtime work, with extra pay, as described in the answer to Question 31.

OVERTIME

29. Do you consider that the Draft Convention should make provision for allowances of overtime for exceptional cases of pressure of work ?  
(Art. 5, par. 1.)

30. (i) Do you consider that the grant of an allowance of overtime should be at the discretion of the competent authority in each country ?

(ii) Should the competent authority be required to consult with the employers' and workers' organisations concerned, where such exist, before granting an allowance of overtime ? (Art. 5, par. 1.)

31. (i) Should the Draft Convention impose any restriction upon the amount of an allowance of overtime ? (Art. 5, par. 1.)

(ii) In which of the following ways do you consider that this restriction should be imposed :

(a) in respect of the individual worker; or

(b) in respect of the staff as a whole ? (Art. 5, par. 1.)

In either case, please indicate what you consider the maximum number of hours of overtime should be.

#### BELGIUM

29. The reply is in the negative.

30. (i) The reply is in the negative.

(ii) Yes, in the event of provision being made for allowances of overtime.

31. (i) The reply is in the affirmative.

(ii) (a) The reply is in the affirmative.

(b) The reply is in the negative.

The maximum number of hours should not exceed nine a day and forty-five a week.

#### BRAZIL

29. Yes, without deviating from the principle laid down in the reply to Question 28 (ii).

30. (i) Yes. The competent authority of each country should be left free to determine by regulations the number of hours of overtime.

(ii) Each Government should be left free to consult the employers' and workers' organisations concerned if it considers it advisable to do so.

31. (i) The competent authority should impose these restrictions in accordance with the different kinds of work.

(ii) (a) and (b) See reply to paragraph (i). The method proposed under (a) might, by preference, be adopted as a standard.

#### CANADA

##### *Province of Manitoba*

29. The reply is in the affirmative.

30. (i) The reply is in the affirmative.

(ii) The reply is in the negative.

31. (i) The reply is in the affirmative.

(ii) (a) The reply is in the affirmative.

(b) The reply is in the negative.

### CHILE

29. The reply is in the affirmative.
30. (i) and (ii) The replies are in the affirmative.
31. (i) The reply is in the affirmative.  
(ii) (a) The reply is in the affirmative.  
(b) The reply is in the negative. The maximum number of hours of overtime should be two a day.

### CUBA

29. The reply is in the affirmative.
30. The reply is in the negative.
31. Yes, in respect of the staff as a whole. Eight hours of overtime a week.

### DENMARK

29. The reply is in the affirmative.
30. (i) The reply is in the affirmative.  
(ii) See the reply to Question 4.
31. (i) If the solution indicated in the reply to Question 26 of the previous general Questionnaire<sup>1</sup> concerning the reduction of hours of work is adopted, the reply is in the negative; if not, the reply is in the affirmative.  
(ii) The restriction should be imposed individually in respect of each worker. If the opinion previously expressed by the Government<sup>1</sup> in regard to the principle is not accepted, a maximum should be fixed in respect of the allowance of overtime and this maximum might reasonably be fixed at about one hundred hours a year for each worker.

### FINLAND

29. The reply is in the affirmative.
30. (i) and (ii) The replies are in the affirmative.
31. (i) and (ii) The replies are in the negative.

### FRANCE

29. The reply is in the affirmative. These overtime allowances, however, should not apply to persons engaged on continuous processes.

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<sup>1</sup> See: INTERNATIONAL LABOUR CONFERENCE, 1934, Report I: *Reduction of Hours of Work*, p. 95.

30. (i) and (ii) The Government considers that the competent authority should be authorised to grant an allowance of overtime not exceeding a maximum to be fixed by the Draft Convention. Before granting an allowance of overtime to any industry the competent authority should be required to consult the employers' and workers' organisations concerned.

31. (i) The reply is in the affirmative.

(ii) The maximum number of hours of overtime should be fixed for the staff as a whole, it being made permissible, however, to apply it separately to each distinct part of the establishment. The maximum might be fixed at sixty hours. It would also be desirable to provide that the hours of overtime might be subdivided, any fraction less than half an hour being reckoned, however, as one half-hour. The number of hours of overtime should not exceed two a day.

#### IRAQ

29. The reply is in the affirmative.

30. (i) The reply is in the affirmative.

(ii) See reply to Question 4.

31. The reply is in the negative.

#### ITALY

29, 30 and 31. The Government considers that provision should be made in the Draft Convention for allowances of overtime for exceptional cases of pressure of work, leaving it to each State to determine, after consultation with the organisations concerned, the number of hours of overtime which may be worked by each worker.

#### NORWAY

29. The reply is in the affirmative in order to be able to cope with unexpected pressure of work.

30. (i) Overtime should be prohibited except in cases provided for in the national laws and regulations.

(ii) See reply to 30 (i).

31. These restrictions should be the same as those stipulated in the national laws and regulations. They should impose limits on overtime in respect of each worker individually. Overtime, including all kinds, should not exceed two hundred hours a year.

#### POLAND

29. The reply is in the affirmative.

30. (i) The reply is in the affirmative.

(ii) (See the footnote on p. 27.)



31. (i) The reply is in the affirmative.

(ii) One hundred hours a year and four hours a day for each worker individually.

#### SPAIN

29. The suggested provision should be included in the Convention for all cases in which the nature of the work and the organisation of the undertaking do not permit of coping with the pressure of work by engaging additional staff.

30. The competent national authority should have discretion to grant an allowance of overtime after consultation with the employers' and workers' organisations concerned.

31. The Draft Convention should impose a restriction on the number of hours of overtime allowed, both in respect of each worker individually and in respect of the staff as a whole.

The maximum allowance that might be granted might be fixed at two hours a day, or twelve hours a week, for each worker.

#### SWITZERLAND

29. The reply is in the affirmative.

30. The reply is in the affirmative.

31. It would seem desirable to fix a limit. The Government is of the opinion that it should be in respect of the individual worker and might be fixed at one hundred hours a year.

#### UNION OF SOUTH AFRICA

29. The reply is in the affirmative.

30. (i) The reply is in the affirmative.

(ii) No; consultation should be left to the discretion of the competent authority.

31. (i) No; this should be left to the discretion of the competent authority.

#### UNITED STATES OF AMERICA

29. Yes. A certain amount of overtime is necessary and desirable to permit establishments to meet seasonal and other special demands.

30. (i) and (ii) The maximum amount of permissible overtime should be fixed in the Draft Convention, but the regulations regarding the details of its granting could properly be left to the competent authority of each country, after consultation with the appropriate organisations of employers and workers. The competent authority should not be allowed to approve any overtime, in excess of that allowed in collective agreements entered into by employers and employees and affecting one-half or more of the workers in the industry.

31. The amount of the allowance of overtime should be restricted in the Draft Convention. This restriction should be in respect to the individual worker, i.e. no individual worker should be allowed to work more overtime hours than the number set in the Draft Convention.

The allowance of overtime should not be greater than a hundred hours per year or proportionately less in the case of construction jobs lasting less than a year. This would mean that the individual worker could be employed not over a hundred overtime hours per year (equivalent to twelve and a half full eight-hour days or fifty days of two hours' overtime each). This should be sufficient to take care of the legitimate requirements of an establishment or undertaking for flexibility in working time.

The fixing of overtime in respect to "the staff as a whole" is strongly opposed. It would mean that individual workers might be employed overtime for indefinite periods. Thus if fifty workers are employed on an annual basis and overtime is allowed for the staff as a whole, permissible overtime would be five thousand hours. This might be divided among ten employees for a total of five hundred hours each.

(Note. — An alternative suggestion is that permitted overtime should apply to the construction project. Thus if work were continued beyond the normal working day by two hours' overtime for fifty days a year, it would exhaust the hundred hours of overtime permitted, irrespective of the number of persons actually working overtime. In the case of construction jobs lasting less than a year, there would have to be a proportionate limitation on the overtime hours permitted.)

32. (i) Do you consider that the Draft Convention should provide for the grant to individual undertakings by the competent authority in each country of temporary permits for further overtime in cases of urgency ?  
(Art. 5, par. 2.)

(ii) Do you consider that the grant of such permits should be restricted to cases in which the competent authority is satisfied of the impracticability of engaging additional persons ?  
(Art. 5, par. 2.)

(iii) Should such permits be granted only in respect of specified persons or classes of persons ?  
(Art. 5, par. 2.)

(iv) Should the Draft Convention impose a restriction on the amount of overtime to be worked by any person in virtue of a permit, and, if so, what maximum number of hours do you suggest ?  
(Art. 5, par. 2.)

#### BELGIUM

32. (i) The reply is in the negative.

(ii) The reply is in the negative.

(iii) The reply is in the negative.

(iv) This maximum should not exceed nine hours a day and forty-five hours a week.

BRAZIL

32. (i) Yes, in cases of urgency the competent authority of each country should have the right to grant to individual undertakings temporary permits for further overtime.

(ii) The reply is in the affirmative.

(iii) The authorisations should be in respect of specified persons.

(iv) No reply is given.

CANADA

*Province of Manitoba*

32. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

(iii) The reply is in the negative.

CHILE

32. (i), (ii) and (iii) The replies are in the affirmative.

(iv) Two hours' overtime a day.

CUBA

32. The reply to the first three questions is in the affirmative. As to the fourth, the Government proposes that the maximum be fifty-six hours a week.

DENMARK

32. (i), (ii) and (iii) The reply is in the affirmative.

(iv) If the opinion of the Government in regard to the principle is not accepted, a maximum should be fixed and this maximum might reasonably be fixed at about sixty hours of overtime a year for each worker.

FINLAND

32. (i) The reply is in the affirmative.

(ii) The reply is in the affirmative.

(iii) This matter should be left to the decision of the competent authority in each country.

(iv) The reply is in the negative.

FRANCE

32. (i)-(iv) The reply is in the negative.

IRAQ

32. (i) and (ii) The reply is in the affirmative.  
(iii) and (iv) The reply is in the negative.

ITALY

32. The Draft Convention should provide for the possibility of further overtime in cases of urgency if it is impossible to engage additional persons.

NORWAY

32. See reply to Question 31.

POLAND

32. (i) The reply is in the affirmative.  
(ii) The reply is in the affirmative.  
(iii) The reply is in the affirmative.  
(iv) Sixty hours.

SPAIN

32. (i) The competent national authority should have power to grant permits as indicated in the question.

(ii) Such temporary permits should be restricted to cases in which the engagement of additional staff is considered impossible.

(iii) They should be granted only in respect of the persons or groups of persons for whom they are considered to be strictly necessary.

(iv) The Convention should fix a limit to the number of hours of overtime as already indicated.

SWITZERLAND

32. The Government considers it necessary that provision should be made for the grant of temporary permits for further overtime to particular undertakings in respect of specified persons or classes of persons. Before granting such permits the competent authority should obviously consider whether it is possible to engage additional persons. This should not, however, be imposed as a strict requirement, but only as an urgent recommendation. It would be advisable to restrict the number of hours in this instance also, and the maximum might be fixed at sixty hours a year for each person.

UNION OF SOUTH AFRICA

32. (i) The answer is in the affirmative.  
(ii) The answer is in the affirmative.  
(iii) No; this should be left to the discretion of the competent authority.

UNITED STATES OF AMERICA

32. There should be no extension of permissible overtime beyond the limit provided for in the answer to Question 31. The extension here suggested in cases of "urgency" is most unwise as no satisfactory distinction can be drawn between the phrase "exceptional cases of pressure of work" in Question 29 and the term "urgency" in the present question.

33. Do you consider that overtime should be allowed otherwise than as indicated in Questions 29 to 32? If so, please indicate in what cases and subject to what conditions and restrictions.

BELGIUM

33. The reply is in the negative.

BRAZIL

33. See reply to Question 28 (ii).

CANADA

*Province of Manitoba*

33. The reply is in the negative.

CHILE

33. The reply is in the negative.

CUBA

33. The reply is in the negative.

DENMARK

33. It is recalled that on the question of overtime the Government has, in its declaration of principle already mentioned,<sup>1</sup> expressed its

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<sup>1</sup> See: INTERNATIONAL LABOUR CONFERENCE, 1934, Report I: *Reduction of Hours of Work*, p. 95.

desire that overtime should be eliminated—except in cases where the special nature of the work prevents it—by the deduction of a corresponding number of hours of work from the normal hours of work.

FINLAND

33. This matter should be left to be determined by the competent authority in each country.

FRANCE

33. Exceptions might be allowed in the case of works carried out for the purposes of national defence or for a public service at the order of the Government.

IRAQ

33. The reply is in the negative.

ITALY

33. The Government is of opinion that in the various cases in which overtime may be granted, the competent authorities should have the right to allow such overtime after consultation with the employers' and workers' organisations concerned.

NORWAY

33. The reply is in the negative.

POLAND

33. The reply is in the negative.

SPAIN

33. The reply is in the negative.

SWITZERLAND

33. The Government has no suggestions to make.

UNION OF SOUTH AFRICA

33. The reply is in the negative.

UNITED STATES OF AMERICA

33. Overtime should not be allowed otherwise than as indicated in the answer to Question 29.

(Note. — As pointed out in the answer to Question 19, the N.R.A. experience led to the conclusion by that organisation that the best method for securing flexibility to meet seasonal demands was by the so-called "tolerance" system, under which overtime was permitted only within a given period, say four weeks or two months, and at extra rates of pay. In practice the "tolerance" system with overtime pay was not incorporated in many important codes, and it is believed that it would be very difficult to secure its acceptance, especially in an international Convention.)

### OVERTIME PAY

34. (i) Do you consider that the Draft Convention should provide for payment at an increased rate for overtime worked in exceptional cases of pressure of work (Questions 29 to 32) ? *(Art. 5 par. 3.)*

(ii) Do you consider that the Draft Convention should provide for payment at an increased rate for extra hours worked in any other cases, and, if so, in which cases ?

35. (i) Do you consider that the minimum rate of increase in pay should be laid down in the Draft Convention ? *(Art. 5, par. 3.)*

(ii) If so, do you consider that the Draft Convention should lay down :

(a) a uniform minimum rate irrespective of when the extra hours are worked; or *(Art. 5, par. 3.)*

(b) differential minimum rates according to whether the extra hours are worked during the day or the night, on Sundays or on legal public holidays ?

Please indicate in either case the minimum rate or rates you suggest.

### BELGIUM

34. (i) The reply is in the affirmative.

(ii) In all the cases proposed, in accordance with the replies given above.

35. (i) The reply is in the affirmative.

(ii) (a) The reply is in the negative.

(b) The reply is in the affirmative.

The Government proposes 25 per cent. for the first two hours of overtime; this rate of increase in pay should be raised to 50 per cent. for further hours of overtime worked during the day, as well as for overtime during the night; it should rise to 100 per cent. for overtime worked on Sundays.

### BRAZIL

34. (i) Yes. Overtime should be paid for at an increased rate.

(ii) The Government considers that this increased rate should be paid in cases where the normal hours of work are exceeded.

35. (i) Yes. The minimum rate of increase in pay should be laid down in the Draft Convention.

(ii) (a) The reply is in the negative.

(b) The reply is in the affirmative.

#### CANADA

##### *Province of Manitoba*

34. (i) The reply is in the affirmative.

(ii) Yes, in all cases of overtime.

35. (i) The reply is in the affirmative.

(ii) (a) The reply is in the negative.

(b) The reply is in the affirmative. Time and one quarter.

#### CHILE

34. (i) The reply is in the affirmative.

(ii) Yes. In all cases in which the Draft Convention permits of the weekly limit being exceeded, save those hours indicated in Question 27.

35. (i) The reply is in the affirmative.

(ii) (a) and (b) The Draft Convention should stipulate that the worker should receive payment for overtime at a rate at least 50 per cent. above the ordinary rate. It might be provided that the maximum increase in pay should be higher, to an extent to be fixed by national laws or regulations, in the case of overtime worked at night, on Sundays or on holidays.

#### CUBA

34. The reply is in the affirmative.

35. Yes. The increase should be forty per cent. for overtime worked during working days and fifty per cent. for overtime worked during the night or on public holidays.

#### DENMARK

34. (i) and (ii) The reply is in the affirmative.

35. It would undoubtedly be desirable to stipulate that approved overtime should be remunerated at not less than one and a quarter times the normal rate. On the other hand, it would not be expedient to fix in the Convention different minimum rates according to whether the extra hours are worked during the day or the night, on Sundays or on legal holidays.

#### FINLAND

34. (i) The reply is in the affirmative.

(ii) The matter should be dealt with by the competent authority in each country.



35. (i) The reply is in the affirmative.

(ii) (a) and (b) The settlement of these details should be left to the competent authority.

FRANCE

34. (i) The reply is in the affirmative.

(ii) It would seem preferable to leave the matter to be dealt with in accordance with custom or agreements between the employers' and workers' organisations concerned.

35. (i) The Draft Convention should do no more than fix a minimum, which might be that prescribed by the Washington Eight-Hour Day Convention.

(ii) The Government considers that different minima should be fixed according to whether the overtime is worked during the day or the night, a distinction being made between working days and Sundays and public holidays. For example—

*Overtime worked during the day:*

Working days . . . . .	25 per cent.
Sundays and public holidays . . . . .	50 per cent.

*Overtime worked at night:*

Working days . . . . .	50 per cent.
Sundays and public holidays . . . . .	75 per cent.

IRAQ

34. (i) The reply is in the affirmative.

(ii) Yes, as a general principle.

35. The reply is in the negative.

ITALY

34 and 35. The Government considers it desirable that the Draft Convention should lay down a minimum rate of increase in pay for additional hours worked. This rate of increase should be at least twenty-five per cent. and should be increased for work done at night, on Sundays and on legal public holidays.

NORWAY

34. Overtime should always be remunerated at an increased rate in comparison with the normal wages.

35. The minimum rate of increase fixed in the Draft Convention should be at least twenty-five per cent. The fixing of rates in particular cases is a question which should be left to employers' and workers' organisations to settle.

POLAND

34. (i) The reply is in the affirmative.  
(ii) The reply is in the negative.
35. (i) The reply is in the affirmative.  
(ii) (a) The reply is in the negative.  
(b) 25 per cent. for the first two hours; 50 per cent. for subsequent hours and for overtime at night, on Sundays and legal public holidays.

SPAIN

34. The reply is in the affirmative, in conformity with the provisions of the national legislation.
35. The Convention should provide that an increase in pay should be given but without fixing a minimum, the settlement of the rate being left to the national laws and regulations.

SWITZERLAND

34 and 35. The Convention should lay down the principle of an increase of 25 per cent. in the rate of wages for overtime, but any further application of this principle should be left to the national laws or regulations. The Government considers that payment at an increased rate should be stipulated only in the case of exceptional pressure of work.

UNION OF SOUTH AFRICA

34. (i) The reply is in the affirmative.  
(ii) Provision should be made in the Draft Convention for the competent authority to provide for an increased rate for extra hours in such cases as it considers necessary.
35. (i) and (ii) Yes; this minimum rate should be time and a quarter.

UNITED STATES OF AMERICA

34. Yes. All overtime should be paid for at an increased rate.
35. (i) The reply is in the affirmative.  
(ii) The rate should be uniform. The suggested overtime rate is one and a half times the regular rate.
- (Note. — The overtime rate of pay fixed in the Convention presented to the 1935 Conference was one and one-quarter times the regular hourly pay. This is lower than the customary rate in the United States, which is usually either one and a third or one and a half. In N.R.A. codes the one and a half practice was slightly more frequent than the one and a third. A system of differential overtime pay for Sundays, etc., is theoretically desirable, but practically very difficult, and it seems that the best policy would be to request a high rate for all overtime.)

## MEASURES FOR ENFORCEMENT AND SUPERVISION

36. (i) Do you consider it desirable that the Draft Convention should specify certain obligations with which employers should be required to comply in order to facilitate the effective enforcement of its provisions ?  
(Art. 6.)

(ii) Do you consider that these obligations should be :

- (a) the posting of notices giving details of the hours of work in operation, rest periods and the arrangements made in cases where hours of work are calculated as an average; (Art. 6 (a).)
- (b) the keeping of a record of all additional hours worked and of the payments made in respect thereof ? (Art. 6 (b).)

37. (i) Do you consider it desirable that the Draft Convention should specify certain points on which full information is to be given in the annual reports on the application of the Convention to be furnished by Members ?  
(Art. 7.)

(ii) If the reply is in the affirmative, what do you consider these points should be ?

### BELGIUM

36. (i) The reply is in the affirmative.

(ii) The replies are in the affirmative to both (a) and (b).

37. (i) The reply is in the affirmative.

(ii) The annual reports should in particular give detailed information as to the use which may have been made of regularly authorised exceptions.

### BRAZIL

36. (i) The reply is in the affirmative.

(ii) (a) and (b) The reply is in the affirmative.

37. (i) and (ii) No reply is given.

### CANADA

#### *Province of Manitoba*

36. (i) The reply is in the affirmative.

(ii) (a) and (b) The reply is in the affirmative.

37. (i) The reply is in the affirmative.

(ii) All matters agreed upon by the Draft Conventions.

CHILE

36. (i) The reply is in the affirmative.  
(ii) (a) and (b) The replies are in the affirmative.
37. (i) The reply is in the affirmative.  
(ii) The Draft Convention might specify points corresponding to those mentioned in Article 7 of the Washington Convention limiting hours of work in industrial undertakings.

CUBA

36. Both these obligations should be specified.
37. The States Members should specify each year in the statistical reports the average number of hours per employed person, the overtime worked, the exceptions granted and the extra wages paid.

DENMARK

36. (i) The reply is in the affirmative.  
(ii) (a) and (b) The reply is in the affirmative.
37. (i) The reply is in the affirmative.  
(ii) In the opinion of the Government it would be desirable to specify:  
(1) To what extent the general reduction of hours of work to forty a week had been given effect;  
(2) The exceptions thereto;  
(3) The methods adopted for giving effect to the reduction of hours of work;  
(4) The amount of overtime and the conditions in which recourse had been had to it;  
(5) The remuneration given for overtime.

FINLAND

36. (i) The reply is in the affirmative.  
(ii) (a) and (b) The replies are in the affirmative.
37. (i) and (ii) The annual reports should contain only information concerning the measures taken by the competent authorities in each country for the application of the Convention.

FRANCE

36. (i) and (ii) The reply is in the affirmative.
37. (i) The reply is in the affirmative.

(ii) The Government considers that the annual reports furnished in accordance with Article 408 of the Treaty of Versailles should include all necessary information on the measures taken to regulate hours of work in accordance with the Draft Convention and on the results obtained. The following points might be specified in the Draft Convention: processes considered to be necessarily continuous; classes of persons excluded from the scope of the Draft Convention in cases in which the Convention itself does not give a precise definition; arrangements of hours of work approved; regulations providing for permanent exceptions; allowances of overtime granted; offences reported.

#### IRAQ

- 36. (i) The reply is in the affirmative.
- (ii) (a) The reply is in the affirmative.
- (b) The reply is in the affirmative.
- 37. (i) The reply is in the negative.

#### ITALY

36. With a view to facilitating the enforcement of its provisions, the Draft Convention should impose on employers the obligation to post notices showing: the hours of work in operation; the rotation of shifts where the work is carried out in shifts; the system of rotation in force; the arrangements made where hours of work are calculated as an average over a certain number of weeks; the rest periods which are not considered as part of the working period. Moreover, the Draft Convention should impose on employers the obligation to keep a record, in such manner as may be prescribed by the competent authorities, of all additional hours worked and the payments made in respect thereof.

37. The Government considers it desirable that, in order to facilitate international supervision, the Draft Convention should specify certain important points to be dealt with in the annual reports of the States Members. As regards the information to be furnished by these Members, the same rules might be laid down as are contained in Article 7 of the proposed Draft Convention submitted to the Nineteenth Session.

#### NORWAY

- 36. (i) The reply is in the affirmative.
- (ii) (a) and (b) The reply is in the affirmative.

37. The annual report should contain information concerning the decisions taken by the competent authority in accordance with the provisions of the Convention.

#### POLAND

- 36. (i) The reply is in the affirmative.
- (ii) The reply is in the affirmative.
- 37. The reply is in the negative.

SPAIN

36. It is considered desirable that the Convention should specify the obligations indicated in the question.

37. The specification of certain points in the Draft Convention itself would seem to be desirable, particularly as regards the class of undertakings to which the Convention has been applied and the cases in which it has been necessary to prolong hours of work.

SWITZERLAND

36. (i) It is necessary to include provisions dealing with enforcement.

(ii) (a) The Government agrees as regards the posting of notices giving details of the hours of work in operation, rest periods and the arrangements made in cases where hours of work are calculated as an average.

(b) The keeping of a record of all additional hours worked and of the payments made in respect thereof seems equally necessary.

Further, it would be desirable to require the employer to show explicitly the normal hours worked in the account delivered to the worker on the day of payment.

37. The Government has no observations to make.

UNION OF SOUTH AFRICA

36. (i) The reply is in the affirmative.

(ii) (a) The reply is in the affirmative.

(b) The reply is in the affirmative.

37. (i) To achieve uniformity as far as possible, it is desirable that these points should be laid down in the "Form for the Annual Report", but not in the Draft Convention: certain countries which do not find it practicable to keep records on these specific points might be prevented thereby from ratifying the Convention.

UNITED STATES OF AMERICA

36. (i) Yes. This is a very desirable provision.

(ii) (a) Yes. This is a very desirable provision.

(b) The reply is in the affirmative.

37. (i) The reply is in the affirmative.

(ii) Include items in Article 7.

THE RELATION BETWEEN THE PROPOSED DRAFT  
CONVENTION ON PUBLIC WORKS AND THE FORTY-HOUR  
WEEK CONVENTION, 1935

38. Do you consider it desirable to indicate in the text of the proposed Draft Convention the connection between this Draft Convention and the Forty-Hour Week Convention, 1935, which declares approval of the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence ?

39. Do you consider that the appropriate method of indicating this connection would be to include in the Preamble of the proposed Draft Convention a passage indicating that in adopting the Draft Convention the Conference confirms the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living ?

40. Do you consider that the terms of the general Convention should be incorporated as an article in the proposed Draft Convention ?

41. If the replies to Questions 39 and 40 are in the negative, what provision do you suggest that the proposed Draft Convention should contain concerning the maintenance of the standard of living ?

BELGIUM

38. The reply is in the affirmative.

39. The reply is in the affirmative.

40. The reply is in the affirmative.

41. This question falls.

BRAZIL

38. The reply is in the affirmative.

39. The reply is in the affirmative.

40. The reply is in the affirmative.

41. The question falls.

CANADA

*Province of Manitoba*

38. The reply is in the affirmative.

39. The reply is in the affirmative.

40. The reply is in the affirmative.

41. The question falls.

CHILE

- 38. The reply is in the affirmative.
- 39. The reply is in the affirmative.
- 40. The reply is in the affirmative.
- 41. See the preceding replies.

CUBA

- 38. The reply is in the affirmative.
- 39. The reply is in the affirmative.
- 40. This does not appear to be necessary.
- 41. The reply is in the affirmative.

DENMARK

- 38. The reply is in the affirmative.
- 39. The reply is in the affirmative.
- 40. No, doubtless this would not be necessary.
- 41. The question falls in view of the reply to Question 39.

FINLAND

- 38. The reply is in the affirmative.
- 39. The reply is in the affirmative.
- 40. The reply is in the affirmative.
- 41. This question falls.

FRANCE

- 38. The reply is in the affirmative.
- 39. The Government considers that the preamble of the Draft Convention might include the same provision as was included in the Draft Convention on hours of work in glass-bottle works, namely "confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living". If, however, the inclusion of this provision were to be an impediment to certain delegates voting for the adoption of the Draft Convention it would be preferable to abandon it, more especially as it relates to a matter of principle and one the application of which is difficult to check.
- 40. The reply is in the negative.
- 41. The question falls.



IRAQ

38, 39, 40 and 41. The Government has no strong views on the questions raised.

ITALY

38, 39, 40 and 41. It seems desirable to indicate in the preamble of the proposed Draft Convention the connection between this Draft Convention and the Forty-Hour Week Convention, 1935, in such a way that States Members ratifying the Convention on the reduction of hours of work on public works would not be obliged to ratify also the general Convention on the Forty-Hour Week. States Members would thus be able to ratify both Conventions or one only independently of the other.

NORWAY

38. The reply is in the affirmative.

39. The reply is in the affirmative.

40. The reply is in the negative.

41. See the reply to Question 39.

POLAND

38, 39 and 40. The replies are in the negative.

41. (No reply.)

SPAIN

38. In conformity with the replies to previous questions, the reply is in the affirmative.

39. The proposal made in the question is acceptable.

40. It would be possible to reproduce the general Convention of 1935 as an article in the new Convention, or simply to introduce into the Preamble a reference to the content of that Convention, the latter method being calculated to facilitate ratification on a wider scale.

41. The question falls.

SWITZERLAND

38 to 41. These questions illustrate the difficulties of a general character resulting from the adoption of Convention No. 47 concerning the reduction of hours of work to forty per week. A new kind of Convention was thus created and there are now two different types: Conventions of the kind familiar hitherto, which contain precise and strictly defined legal obligations, and Conventions which do not aim at laying down a legal obligation, but simply declare a general principle in an abstract fashion, as in the case of Convention No. 47 relating to the forty-hour week adopted in 1935. It might be asked if the second type of Convention

is in conformity with the intention and purpose of Article 405 of Part XIII of the Versailles Peace Treaty, for, according to the intentions underlying this article (and other provisions bearing on it), a Convention should evidently lay down precise legal standards, while it was intended that simple postulates not having the force of obligations should be expressed in the form of a Recommendation. Moreover, the practical importance of such a Convention as that of the forty-hour week, which has created a dangerous confusion in the legal sphere, is very doubtful, since the general and the particular Conventions, although having a bearing one on the other, are nevertheless in law and in fact entirely independent; in fact, a general Convention may be ratified without any obligation to ratify also the particular Conventions which it envisages, and, on the other hand, a Member-State may adhere to a particular Convention without having ratified the general Convention.

As regards the manner in which a connection should be established between the general Forty-Hour Week Convention and the particular Conventions with reference to the *maintenance of the standard of living*, in this instance also the principle must be adhered to that the only proper method of dealing with the matter is by regulations which are legally quite free from obscurity. Thus regarded, the problem admits of only two possibilities: either a special provision should be inserted in the text of the Convention or no mention should be made of it at all. A reference in the preamble, as in the case of Convention No. 49 on the reduction of hours of work in glass-bottle works and also as suggested in Questionnaire No. III, is no more than a simple fiction, if not an illusion. Such a reference has no legal force. Further, the Conference has refrained, with good reason, from including in the preamble of any of the 46 Conventions so far adopted any provision dealing with questions of substance. There can, however, be no question of including in the Convention a special article on the maintenance of the standard of living of the workers in view of the fact that such a provision, as is rightly pointed out in the commentary on the Questionnaire, cannot be given effect in practice (although the article figures in the text of the general Forty-Hour Week Convention). Is it suggested that States should undertake to control the price level and earnings by making the constant adjustments necessary to maintain a specific relation between these two factors? Even should any country take such measures, which could happen only in exceptional cases and also only to a limited extent, it would hardly be possible to exercise international supervision in order to ascertain if the measures were adequate.

As regards the substance of this question, the Government continues to be opposed to any reduction of hours of work which is subjected to the condition that it must not entail a lowering of the standard of living of the workers. The considerations on which this attitude is based have already been stated in detail several times and the Government would particularly refer in this connection to the explanation given by its delegates to the last Session of the Conference.

#### UNION OF SOUTH AFRICA

38. The reply is in the affirmative.

39 and 40. If the States Members are honest in their intention to comply with the spirit of the Draft Convention, the result would appear to be identical whether the connection between the Forty-Hour Week

Convention and the proposed Draft Convention is shown by indication in the Preamble or by incorporation as an Article: either method would be equally binding.

The former would, however, appear to be preferable, for the following reasons:

(a) It was adopted in the case of the Draft Convention concerning Glass-Bottle Works, and uniformity of method, in so far as it is possible, is desirable in dealing with all the Draft Conventions concerning the reduction of hours of work.

(b) From the report of the discussions at the last Conference, it appears that there was an impression among certain of the States Members that this method would allow the competent authorities greater elasticity in applying the terms of the Draft Convention.

41. Falls away.

#### UNITED STATES OF AMERICA

38 to 41. This Government regards the principle of "the maintenance of the standard of living" as an essential part of any proposal for the reduction of hours. Therefore, it believes it preferable to include an expression of this principle in the body of the Draft Convention. To refer to such a matter only in the Preamble might be construed as implying that it was not regarded as being of the same importance as the requirements concerning reduced hours.

It is suggested that a new article be inserted in the proposed Draft Convention, to read as follows:

"Any decrease in hours of work due to this Convention shall be accompanied by a proportionate increase in the hourly rate of pay, so that the application of this Convention shall not, as a consequence, reduce the weekly income of the workers, nor lower their standard of living."

## CHAPTER II

### ANALYSIS OF THE REPLIES OF THE GOVERNMENTS AND CONCLUSIONS

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The consultation of Governments on the question of the reduction of hours of work in public works took place in circumstances differing materially from those in which a consultation is usually effected in preparation for a second discussion by the International Labour Conference of proposals for the adoption of international regulations. The general question of whether a reduction of hours of work is to be regarded as desirable has already been settled, since the Nineteenth Session of the Conference adopted, by the necessary two-thirds majority, the Forty-Hour Week Convention, 1935. The particular issues at present under consideration are, first, whether public works is a form of employment to which the general principle laid down in the Forty-Hour Week Convention should now be applied, and, secondly, what should be the particular methods of application adopted. On this second issue, again, the consultation of Governments was somewhat different from that which usually takes place, since the Nineteenth Session of the Conference, though it did not decide on the adoption of a Forty-Hour Week Convention for public works, did nevertheless approve, by a majority vote, proposals for a Draft Convention which had been submitted to it by the International Labour Office and examined and amended by a committee of the Conference. In effect, therefore, Governments were asked not so much to give their views on entirely new proposals as to suggest what modifications might usefully be made in proposals which had already received a preliminary examination. The replies of Governments on both these issues are summarised below.

#### Desirability of an International Convention

##### Question 1 (Replies on pp. 11 to 23)

The first question put to Governments was whether they consider it desirable that the Conference should adopt, in the form of a Draft Convention, international regulations for the reduction of hours of work on public works undertaken or subsidised by Govern-

ments, in accordance with the principle laid down by the Forty-Hour Week Convention, 1935. On this question the replies show a considerable diversity of opinion.

Thirteen Governments in all express themselves either as definitely opposed to, or not at present in favour of, the adoption of a Forty-Hour Week Convention for public works. These are the Governments of the following countries: Austria, Bulgaria, the Canadian Province of Saskatchewan, Colombia, Estonia, Great Britain, Hungary, India, Japan, the Netherlands, Sweden, Switzerland and Yugoslavia. Of these Governments, three—those of India, the Netherlands and Switzerland—voted against the adoption of the Forty-Hour Week Convention, 1935, and their replies maintain in the particular case of public works the general objection of principle thus expressed.

Unlike the Governments whose replies are favourable to the adoption of a Draft Convention, most of whom content themselves with a simple affirmative reply to the question put, the Governments whose replies are negative explain their attitude, in certain cases at some length, and it will be seen that their reasons are not in all cases the same and that they do not always take up an attitude of absolute opposition to the principle of the reduction of hours of work.

The British Government objects to a Forty-Hour Week Convention for public works on two grounds. In the first place, it considers that the Draft Convention adopted by the Conference in 1935 does not safeguard the earnings of the workers whose hours are reduced. It is, of course, true that the Convention of 1935 does no more than lay down the principle of the maintenance of the standard of living of the workers; but, as will be seen later in the examination of the replies to the second part of the Questionnaire, it is difficult to see in what way detailed application of this provision could be effected by an international Convention, and in the solution of this problem the reply of the British Government does not afford any assistance. The second objection put forward by the British Government in its reply is that public works do not constitute a separate industry and that it would be wrong to legislate on hours of work according to whether or not the activity was directly or indirectly being conducted under Government auspices. This is, of course, an argument directed not against the principle of reduction of hours of work but against the selection of public works as one of the cases in which the principle should receive specific application. This objection is not raised by any other Government.

Certain Governments oppose the application of the principle of the forty-hour week, either generally or in the particular case of public works, on the ground that it would entail an increase in costs of production. This objection is raised by the Governments of the Netherlands, Switzerland and Yugoslavia, and also, though not apparently as the major consideration, by the Government of Sweden.

The special economic situation in certain countries is given as the reason for the negative replies from another group of Governments. The Japanese Government simply states that in view of the present situation of industry in Japan it would be difficult to impose by legislation a reduction of hours of work which would contribute to an improvement in the unemployment situation. The Government of India considers that in the special conditions of that country a forty-hour week would not suffice to enable the worker to produce sufficient to give him an adequate livelihood and also contends that a general reduction of hours of work would necessitate subsidies from the State in order to maintain the standard of living, a course which would not be justified. The Austrian Government adopts an attitude of reserve, giving as its reasons the lack of economic resources, assured markets and modern technical equipment in that country. The Government of Bulgaria also refers to the lack of technical equipment and gives the further reason that in Bulgaria the industries now under consideration are for the most part seasonal or in the initial stages of development. The Hungarian Government points out that the forty-eight-hour week is only now in course of introduction in that country and that consequently the introduction of a still shorter week is at present inadvisable.

Shortage of labour is cited as a reason for the negative replies from Estonia and Sweden. The Estonian Government states that building and civil engineering workers are not suffering from unemployment and that on the contrary it has been found necessary to allow extensions of hours of work beyond the normal limits in order to enable building work to be completed during the relatively short season which is available for such work in that country. The Swedish Government points out that it has even been necessary to import building workers from neighbouring countries and also refers to the difficulties in the organisation of the supply of labour and of hours of work created by climatic conditions. This Government, as has already been mentioned, also raises the objection of an increase in costs of production, fearing that a reduction of hours of work would react unfavourably on the programme of public works now being carried out as a means not only of improving housing conditions but also of reducing unemployment.

It will be noted, however, that neither of these Governments raises any objection of principle to the reduction of hours of work. The Estonian Government suggests that the Conference might adopt a Recommendation on the subject, while the Swedish Government's objections are based on the difficulties it apprehends in the particular cases now under consideration and on those which would arise if hours of work were reduced in some countries while competing countries continued to work longer hours.

The Governments of the Canadian Provinces of Alberta and British Columbia abstain from replying, in the case of the latter owing to uncertainty as to Dominion and Provincial jurisdiction in these matters.

On the other side there are fifteen Governments whose replies are in favour of the adoption of a Forty-Hour Week Convention for public works. These are the Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, Denmark, Finland, France, 'Iraq, Italy, Norway, Poland, Spain, the Union of South Africa and the United States of America. Three of these replies, namely, those from Brazil, Finland and South Africa, indicate that the Governments would not be in a position to ratify forthwith any Draft Convention that might be adopted, and probably the Government of 'Iraq should be added to this group. The Government of Chile suggests that a forty-four-hour week might be easier to apply in practice than a forty-hour week. The remaining replies include those of two Governments, namely, those of Italy and the United States of America, which have actual experience of the application of the forty-hour week: indeed, the United States Government sees reasons, again on the basis of actual experience, for a reduction of hours of work on public works to thirty a week.

It will be seen that the opinions of Governments are fairly evenly divided. There is a majority of replies in favour of the adoption of a Draft Convention. The strength of this majority is somewhat weakened by the fact that a few Governments do not contemplate early ratification of the Draft Convention, but on the other hand it is augmented by the fact that it includes two Governments in whose countries the forty-hour week has already been applied.

The minority is substantial and includes a number of countries of considerable industrial importance. On the other hand, some of the replies which have been classed as negative appear to indicate, not absolute opposition in principle, but rather inability to consider application of the reduction of hours of work at the present time and in present conditions; that is to say, they deal with an issue that arises in relation to ratification of any Draft Convention that may be adopted rather than in relation to the question of whether or not the Conference should adopt a Draft Convention. There is a definite majority of replies which are unqualifiedly affirmative as compared with those that must be regarded as unqualifiedly negative, but any attempt to strike an arithmetical balance would be useless, not only because of the qualifications made in a number of replies but also because many Governments, including several whose delegates voted for the adoption of the Forty-Hour Week Convention, 1935, had not furnished replies to the Questionnaire by the date at which this Report had to be prepared.

It is therefore impossible for the Office to forecast what will be the situation when the Conference meets. At the same time, it is clear that the Office must make the necessary preparations to enable the Conference to take a decision on a definite text. The Nineteenth Session of the Conference adopted a Draft Convention which not only laid down the general principle of the Forty-Hour Week but clearly contemplated the specific application of the principle by a series of Draft Conventions to be considered and adopted

by subsequent sessions of the Conference. It also decided that one of the series of Draft Conventions to be considered should deal with public works, and even gave preliminary consideration to proposals for such a Draft Convention. The Office is bound to implement the decisions of the Nineteenth Session of the Conference and to enable the Twentieth Session to take a definite decision on the question of whether the principle laid down in 1935 should now be applied to the case of public works and, if so, what should be the precise method of application. The Office has therefore followed its usual practice of examining all the suggestions made by Governments which have replied in detail to the Questionnaire and submitting for the consideration of the Conference the complete text of a proposed Draft Convention.

### Scope of the Draft Convention

#### (a) AS REGARDS THE WORKS AFFECTED

##### *Definition of "Public Works"*

Questions 2 to 5 (Replies on pp. 23 to 28)

The proposed Draft Convention discussed in 1935 provided for the application of the forty-hour week to persons employed on "building or civil engineering work financed or subsidised by central Governments", the precise delimitation of the terms "building or civil engineering", "financed" and "subsidised" being left to be determined by the competent authority in each country. The great majority of the Governments that have replied to Questions 2 to 5 are in favour of this method of defining the scope of the Draft Convention as regards the works affected.

The Government of Finland suggests a narrowing of the proposed scope in one direction and a widening in another: it would exclude works which were only subsidised and not entirely financed by the State, and on the other hand it would include works entirely financed by local authorities. The Government of Belgium would also appear, from its reply to Question 5 (ii), to favour the inclusion of works executed for public bodies other than the central Government, including undertakings working under concessions such as public utility services. The French Government would have preferred to extend the scope to include works financed or subsidised by all public authorities, but does not insist on this suggestion. The Swiss Government expresses some apprehension as to difficulties which might arise if the forty-hour week were not applied simultaneously to building and engineering work undertaken by private persons, since, it says, "if public works were given out to private contractors, the workers concerned would be governed by two different systems". But even if the State gives the work out on contract, instead of executing it itself, the works would still



be "financed or subsidised" by the State and would therefore come within the scope of the Draft Convention, and the State, as the Swiss Government itself points out, would be in a position to lay down the conditions of work—by means of the contract—by the very fact of its financing or subsidising the works. It is true that if the shorter week were applied to public works and not to building and civil engineering in general the workers in the trades concerned would work a shorter or a longer week according to the character of the particular job they were employed upon. The result would no doubt be to give rise to a demand for equalisation of conditions of employment by the extension of the forty-hour week to building and civil engineering in general. It is, in fact, one of the reasons in favour of the adoption of a separate Draft Convention for public works that it would enable Governments to set the example to other employers. The South African Government's reply to Question 2 gives rise to the same observations as the Swiss reply.

With the reservation expressed by the Finnish Government in respect of subsidised public works, all the Governments accept the definition indicated in Question 2.

The next issue, raised in Questions 3 and 5, is whether any provision is necessary for more precise delimitation of the significance of the terms "building or civil engineering", "financed" and "subsidised" than is afforded by the ordinary usage of these terms, and if so, what that provision should be. Either of two courses might be adopted. The first is to place the responsibility for prescribing any closer definition that may be necessary upon the competent authority in each country; this is the method indicated in Question 3. The second is for the Conference itself to enter into detail by drawing up a list, illustrative if not exhaustive, of works to be regarded as public works; this is the method indicated in Question 5.

The Belgian Government appears to consider that no amplification of the ordinary terms would be necessary, while the Brazilian Government, which replies in the affirmative to both Questions 3 and 5, would appear to be prepared to accept either method. The French Government replies in the affirmative to Question 3 as regards the terms "financed" and "subsidised", but suggests that the list of building and civil engineering works included in the proposed Draft Convention relating to that industry should be reproduced in the present Draft Convention. The United States Government is also opposed to leaving the precise definition of "building or civil engineering" to the competent authority, and proposes the inclusion of a list of works. It further suggests an amplified definition in substitution for "financed or subsidised". Otherwise all the replies are definitely in favour of delimitation by the competent authority. The Government of Chile, it should be noted, puts forward the suggestion that the Draft Convention might be supplemented by a Recommendation giving a general definition of public works with a list of examples.

The opinion of Governments is divided on the point raised in Question 4, namely whether Governments should be required to consult with the organisations of employers and workers concerned before proceeding to any delimitation of the terms used in the definition. The issue is not, of course, as to whether such consultation should or should not take place, but whether consultation should be left to the discretion of the Governments or made compulsory on them as one of the obligations imposed by the Draft Convention. Two Governments—those of Brazil and Norway—do not reply to this question. The Governments of Denmark, Iraq and the Union of South Africa are of opinion that consultation should not be made obligatory. The Government of Poland does not reply to this question in particular, but while not opposed to the principle of consultation—its practice being in fact in conformity with the principle—it expresses a general objection, based on practical considerations, to making consultation obligatory in too many cases. Whether the Polish Government would regard this as a case in which consultation might be left to the discretion of the Governments is therefore not certain; if so, the number of Governments taking this view would be raised to four. On the other hand, there are ten Governments—those of Belgium, the Canadian Province of Manitoba, Chile, Cuba, Finland, France, Italy, Spain, Switzerland and the United States of America—which are in favour of making consultation obligatory.

In view of the fact that there is a decided majority of replies in the affirmative to Question 3 and also a majority of replies in the affirmative to Question 4, the Office proposes to leave unchanged the text approved by the last Session of the Conference.

### *Defence Works and Government Supplies*

Questions 6 and 7 (Replies on pp. 28 to 32)

No reference was made in the text approved by the Conference in 1935 to works carried out in time of peace for purposes of national defence nor to work on supplies for defence purposes or on ordinary supplies for Government departments. Works of the former kind might well be regarded as building and civil engineering which would come within the scope of the Draft Convention unless specifically excluded, while work on supplies, though not building or civil engineering, would nevertheless be "public". Governments were therefore asked to give their views on the question of excluding public works of these kinds.

A majority of the replies are opposed to the exclusion of any of the three kinds of work indicated. In the case of works carried out in time of peace for purposes of national defence, the Governments of Brazil, Chile, Finland, France, and Poland are in favour of exclusion, while those of Belgium, the Canadian Province of Manitoba, Cuba, Denmark, Iraq, Italy, Norway, Switzerland, the Union of South Africa and the United States of America are opposed, the qualification being added by the Iraqi Government

that exclusion should be provided for only in times of national emergency, and by the United States Government that work done by members of the regular military or naval forces should not be covered. The Government of Spain is also opposed to exclusion as a general rule, but suggests that the competent authority in each country should be authorised to exclude such works, by way of exception, principally as regards national defence. There is thus a majority in favour of the inclusion of these works in the scope of the Draft Convention. No amendment of last year's text of the proposed Draft Convention is necessary to effect their inclusion, since they would be included—so far as they were building or civil engineering work—unless expressly excluded.

In the case of supplies of all kinds for purposes of national defence there is also a majority of replies against exclusion. The replies from Chile, Finland, France and Poland are in favour of exclusion, while those from Belgium, Brazil, the Canadian Province of Manitoba, Cuba, Denmark, 'Iraq (again with the qualification as to times of national emergency), Italy, Norway, Switzerland, the Union of South Africa, and, somewhat doubtfully, the United States of America, are opposed, as also is the Spanish reply at least in principle.

The situation is exactly the same in regard to supplies for Government Departments, except that in this case the French Government appears to favour inclusion.

It will have been noted, however, that the reply of the Swiss Government is the only one that refers expressly in its reply to the difference between work on supplies which would come within the category of building or civil engineering and work on supplies executed in other industrial establishments. There is, therefore, room for some doubt as to how far the Governments replying in favour of the inclusion of work on supplies may have had in mind supplies of all kinds and how far they may have intended inclusion to apply only in respect of building and engineering work so far as this could be regarded as supplies. The replies to the earlier questions, however, would seem to indicate that the view of the Governments generally was that the proposed Draft Convention should apply only to employment on building and civil engineering jobs and that their replies to Question 6 must be construed accordingly. As there is a majority of Governments opposed to exclusion of this kind of work, and as the purchase of supplies is equivalent to the financing of the work, there is no need for any special provision on the point, since the general definition of "building or civil engineering works financed or subsidised by central Governments" already entails the inclusion of any building or civil engineering work that would come under the heading of supplies. Any cases of doubt would be for determination by the competent authority as provided in Article 1 (2) quoted above.

Question 7 raises, in respect of national defence works and supplies, if any of these should be excluded, the same issue as was raised more generally in Questions 3 and 4. As there is a majority

against the exclusion of this kind of work from the scope of the Draft Convention, the question of the method of exclusion ceases to be of interest. It may be noted, however, that all the replies to Question 7 (i), except that of the United States Government, are in favour of the list of works to be excluded, if any, being drawn up by the competent authority in each country, while the replies to Question 7 (ii), which raises the issue of consultation by that authority with the employers' and workers' organisations concerned, give a majority in favour of making such consultation obligatory, though this reckoning must be inconclusive since several Governments opposed to exclusion do not give a specific reply on this issue.

### *Minor Works*

Questions 8 and 9 (Replies on pp. 32 to 34)

In Question 8 Governments were asked to give their views as to the exclusion from the application of the proposed Draft Convention of public works of minor importance. All the replies, with the exception of those from Brazil, Chile and Finland, are opposed to the exclusion of minor works.

A negative answer having been given to Question 8, the issues raised in Question 9—the determination of what are minor works by the competent authority in each country after consultation with the employers' and workers' organisations concerned—no longer arise, and the reckoning of a majority is rendered inconclusive by the fact that several Governments which replied in the negative to Question 8 do not reply specifically to Question 9.

No change in the 1935 text is called for, since no provision was made in it for the exclusion of minor works.

### *Supplies for Public Works*

Question 10 (Replies on pp. 34 to 36)

There is a substantial majority among the replies in favour of the exclusion from the scope of the proposed Draft Convention of work connected with the delivery or supply of tools, equipment, machines, materials, etc., for public works. The Government of Chile remarks that such work would fall outside the definition of "public works" so that express exclusion is not necessary. The Government of Cuba considers that the work in question should be included if the supplies are furnished by an undertaking dependent in some manner on the State; in such a case the source of the supplies would in all probability be itself subject to the application of the Convention, and evidently the Cuban Government considers that if there is no direct connection with the State in this way work on supplies should be excluded. This point as to direct connection is also made expressly by the Governments of Spain and the Union of South Africa, and by the French Government in its reply to Question 2. The Governments of Iraq and the

Canadian Province of Manitoba alone give a simple negative reply to the question.

It may be taken, therefore, as the general desire of the Governments that work connected with the delivery and supply of tools, materials, etc., for public works should be excluded unless such work is really an integral part of the public works job itself. This problem was met in the draft submitted by the Office to the Conference last year, in which restriction was effected by the use of the word "directly" in the phrase "persons employed on building or civil engineering work"; but this limitation was removed during the course of the discussion of the text in committee. The simplest method of meeting the wishes of the Governments would be to restore the word "directly" to the draft, as is suggested by the French Government. At the same time it would seem desirable to alter the word "work" to "works", in the English text, in order to make it plain that the Convention will apply not only to work of carpenters, masons, etc., which is strictly building or civil engineering work, but also to any ancillary work, such as that of lorry drivers, for example, which is carried out by the staff engaged on the public works job.

This completes the series of questions relating to the scope of the Draft Convention as regards the works affected, and it will be seen that only on the issue raised in Question 10 do the replies of the Governments call for any amendment of the text approved by the Conference in 1935. The Office accordingly proposes to maintain last year's wording, with this one amendment, as follows:

#### ARTICLE 1

1. This Convention applies to persons directly employed on building or civil engineering works financed or subsidised by central Governments.

2. For the purpose of this Convention the precise scope of the terms "building or civil engineering", "financed" and "subsidised" shall be delimited in each country by the competent authority after consultation with the organisations of employers and workers concerned where such exist.

#### (b) AS REGARDS THE PERSONS AFFECTED

##### *Persons who may be exempted*

Questions 11 to 13 (Replies on pp. 36 to 41)

The text approved by the Conference in 1935 was so drafted as to apply to all persons employed on public works coming within the scope of the Convention but permits the competent authority in each country to exempt from its application three classes of persons. In Question 11 Governments were asked their views as to the maintenance of this power of exemption.

All the replies with the exception of those from Norway, Poland and the United States of America are in favour of permitting the exemption of persons employed in undertakings in which only members of the employer's family are employed.

The other two classes of workers under consideration are persons occupying positions of supervision or management and persons

engaged in technical control of operations, subject in both cases to the condition that these persons do not ordinarily perform manual work. All the replies are in favour of permitting exemption in these cases with the exception of those from France and Poland. The French Government agrees as regards persons occupying positions of management, but not as regards those occupying positions of supervision or engaged in technical control of operations. The latter it regards as employees who should benefit by the Convention, though it would allow of any special exceptions required by the nature of their duties. The Polish Government likewise agrees as regards persons occupying positions of management, but is opposed to the exemption of persons in the other two categories, pointing out that their exemption would tend to increase rather than to diminish unemployment among this class of workers. The United States Government also expresses some doubt on this score.

The contentions put forward by these Governments are undoubtedly weighty, and the Office has endeavoured to find a form of words which would expressly restrict exemptions within fairly narrow limits. In view, however, of the variety in the kinds of operations and the classes of workers of which account has to be taken in the case of public works, it does not seem possible to frame a provision in less general terms than those already appearing in the text approved by the Conference in 1935. The reference in that provision to "persons engaged in technical control of operations" was taken, it will be remembered, from the draft submitted by the Sub-Committee on Iron and Steel to the Committee on the Reduction of Hours of Work. It did not form the subject of any special consideration of its suitability in the case of public works, and there is perhaps some room for doubt as to whether the expression would be given a wide or a narrow interpretation when used in relation to building and civil engineering work. It might also perhaps be considered that there is no need to provide in the present Draft Convention for exemption for both "persons occupying positions of supervision" and "persons engaged in technical control of operations". If the intention is to allow exemption only in respect of the higher ranks in the hierarchy, persons occupying positions of supervision and not performing manual work might be regarded as being in fact engaged either in the management of the undertaking or else in technical control of operations, so that the reference to positions of supervision might perhaps be dropped. It must be observed, however, that this matter is one in which national circumstances may differ widely. In a country where specially qualified workers were available in sufficient number, there would of course be no reason to exempt them from the application of the Convention and the Government would have no occasion to exercise the power of exemption, but it can readily be conceived that in some countries the number of workers with the special qualifications required for the supervision and control of certain operations on a public works job of unusual difficulty—a specially difficult bridge or dam-building job—might

be very limited. The necessary experts might even have to be brought in specially from some other country. In such circumstances exemption might be considered not unreasonable.

On the whole, therefore, there would seem to be a case for allowing some discretion to Governments in regard to the exemption of a class of workers whose number could not in any event be very great, and as regards the wording of the provision for this purpose the Office has not felt that it would be justified in departing from the formula adopted in 1935.

Whether exemption should be permitted of any other classes of persons than those specified in the draft of 1935 was raised in Question 12. Ten Governments—those of Belgium, the Canadian Province of Manitoba, Chile, Cuba, France, Italy, Norway, Poland, Spain and the United States of America—are opposed to permitting any further exemptions. The Brazilian Government proposes the addition of certain watchmen and of others whose work is not continuous; it would seem, however, that these cases would come within the scope of the general provision made in Article 3 concerning the persons whose work is intermittent, and since this Article prescribes that though the hours of work may be longer than the normal some limitation shall nevertheless be fixed, by the competent authority in each country, it would seem desirable to meet the case raised by the Brazilian Government under this Article rather than by permitting complete exemption. Two Governments, those of Finland and the Union of South Africa, appear to desire that the competent authority in each country should have full power to exempt any classes of persons at its discretion and without any limitation imposed by specification of classes in the Convention itself. The objections to so wide a latitude are evident and the Office doubts if the Conference would be prepared to go so far as these Governments suggest. The 'Iraqi Government suggests the exemption of non-manual workers, such as clerical staff, draughtsmen and messengers. Non-manual workers as a body generally work shorter, rather than longer, hours than manual workers and it would seem to be difficult to justify such a wide exemption in a Convention for the reduction of hours of work. Proposals more limited in scope are made by the Norwegian and Swiss Governments. The Danish Government proposes that the exemption of persons employed in a confidential capacity should be permitted. A provision of this kind appears in earlier Hours of Work Conventions, but objection has been taken to it on the ground that it can be construed to permit the exemption of clerical and office workers on too generous a scale.

The first suggestion of the Swiss Government relates to persons employed on public works carried out in remote districts, where special arrangements may be necessary for the housing, transport, feeding, medical treatment, etc., of the main body of workers engaged. The second suggestion relates to specialist workers such as divers and miners, whose position might be compared with that of persons engaged in technical control of operations but who would

not come within the scope of the exemption provided for their case. It must be admitted that special difficulties might arise in the strict regulation of hours in the execution of public works in very inaccessible districts and also in the case of certain very specialised kinds of labour, the supply of which may in certain countries be limited. The Swiss Government clearly admits the necessity of limiting exemption in such cases, since it proposes not a general exemption, but the grant by the competent authority of temporary permits. The Office feels that consideration might be given to these special cases, but that it might be more appropriate to do so in connection with Article 3 of the draft, which makes provision for other cases in which hours of work in excess of the standard may be worked.

On the issue of whether it should be made obligatory on the competent authority to consult with the employers' and workers' organisations concerned in this matter of exemptions, which is raised in Question 13, the opinion of Governments is once more fairly evenly divided. The replies from Brazil, Denmark, 'Iraq, Norway, Poland and the Union of South Africa are in favour of leaving the matter to the discretion of the Governments. The contrary view is taken by the Governments of the following countries: Belgium, the Canadian Province of Manitoba, Chile, Cuba, Finland, France, Italy, Spain, Switzerland and the United States of America. As there is a majority in favour of the retention of the provision making consultation obligatory, the Office does not propose any change in the text of 1935.

On the basis of the foregoing survey of the replies of Governments the Office proposes to maintain the text of 1935 unchanged. The text submitted to the Conference for the concluding sections of Article 1, defining the scope of the Draft Convention as regards the persons affected, is therefore as follows:

#### ARTICLE 1

1. . . . .
2. . . . .
3. The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention:
  - (a) persons employed in undertakings in which only members of the employer's family are employed;
  - (b) persons occupying positions of supervision or management or engaged in technical control of operations who do not ordinarily perform manual work.

### Limitation of Hours

#### *Definition of Hours of Work*

Question 14 (Replies on pp. 41 to 43)

The replies reveal almost complete unanimity in favour of the maintenance of the text approved last year concerning the definition of what is meant by "hours of work" for the purposes of the



Convention, the only exception being the reply of the United States Government.

The Swiss Government calls attention to the need for some allowance for "travelling time" in certain cases, but this is a matter so bound up with local conditions and custom that it could hardly be the subject of international regulation.

The Office accordingly submits without change the text of 1935, which was as follows:

## ARTICLE 2

.....  
For the purpose of this Convention, the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

### *Standard Forty-Hour Week*

#### Question 15 (Replies on pp. 43 to 44)

The great majority of replies favour forty hours as the standard limit for the working week. The Governments of Brazil, Finland and 'Iraq abstain from replying specifically to this question, their general position having been stated in their replies to Question 1. The Government of Chile would prefer a week of forty-four hours, while the Swiss Government suggests that consideration might be given to the possibility of permitting the competent authority to extend the working week up to forty-eight hours in case of urgent necessity due to very special circumstances. The South African Government agrees to the forty-hour limit "as a general rule". All the other replies, namely those from Belgium, the Canadian Province of Manitoba, Cuba, Denmark, France, Italy, Norway, Poland, Spain and the United States of America, agree without qualification to forty hours as the standard.

### *Continuous Processes*

#### Questions 16, 17 and 18 (Replies on pp. 45 to 48)

All the Governments are in favour of allowing a slightly longer week of forty-two hours for workers employed on continuous processes, with the exception only of the Governments of Finland and 'Iraq, which abstain from specific reply, and of the United States of America, which would maintain the forty-hour week even for continuous processes. The Swiss Government again suggests the possibility of extension to forty-eight hours in exceptional cases, but there is no qualification in the case of all the other Governments, namely those of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, Denmark, France, Italy, Norway, Poland, Spain and the Union of South Africa. The French Government, however, suggests that the processes in question should be defined as those which are "necessarily" continuous.

All the Governments are also in favour of requiring the competent authority in each country to determine what are the continuous processes in respect of which the forty-two-hour week should apply, the only exception being the 'Iraqi Government, which abstains from replying. The Chilean Government suggests that a list of such processes might be given in the Recommendation which it proposes in its reply to a previous question should accompany the Draft Convention. On the question of whether it should be made obligatory on the competent authority to consult with the employers' and workers' organisations before determining what are continuous processes the replies of Governments are once more divided. The Governments of 'Iraq and the U.S.A. refrain from replying. The Governments of Brazil, Denmark, Norway, Poland and the Union of South Africa are in favour of leaving the matter to the discretion of the competent authority and the Governments of Belgium, the Canadian Province of Manitoba, Chile, Cuba, Finland, France, Italy, Spain and Switzerland prefer to make consultation obligatory by the terms of the Convention, though the Spanish Government qualifies its reply with the words " whenever possible ".

### Calculation of Hours as an Average over a Period

Questions 19, 20 and 21 (Replies on pp. 48 to 53)

The French Government would allow weekly hours of work to be calculated as an average over a period only in respect of continuous processes, and the Chilean Government considers that averaging should not apply as a general rule in the case of non-continuous processes. The Canadian Provincial Government of Manitoba and the Cuban Government are opposed to averaging, while the 'Iraqi Government abstains from replying to the question. All the other replies are in favour of permitting averaging on both non-continuous and continuous work.

If averaging is permitted as is proposed by almost all the replies, the question arises as to whether any limit should be fixed for the length of the period over which the average may be calculated and, if so, whether the limit should be fixed by the Convention itself or by the competent authority in each country.

Almost all the Governments are in favour of requiring the competent authority to fix the length of the averaging period. The only exceptions are the 'Iraqi Government, which abstains, the Cuban Government, which is opposed to averaging, and the French Government, which would include a maximum period of four weeks in the Draft Convention. A few Governments suggest that

the matter should not be left to the unfettered discretion of the competent authority. The Danish Government proposes that an over-riding maximum be laid down in the Convention and suggests that this maximum period might be six weeks, while the Government of the Union of South Africa proposes a maximum period of three weeks. The Norwegian Government suggests that the maximum period for non-continuous processes should be from four to six weeks. The Chilean Government proposes that a period of three weeks should be suggested in the Recommendation. The majority of the replies therefore are in favour of leaving the fixing of the averaging period entirely to the competent authority.

On the question of consultation with the employers' and workers' organisations before the length of the averaging period is fixed by the competent authority, the Governments are once more divided in their views. The 'Iraqi Government abstains from a reply on the point and the Governments of Cuba, Denmark, Poland and the Union of South Africa desire consultation to be at the discretion of the competent authority. On the other hand, the Governments of the following countries consider that consultation should be made obligatory: Belgium, Brazil, the Canadian Province of Manitoba, Chile, Finland, Italy, Norway, Spain, Switzerland and the United States of America. The United States Government goes further and suggests that the competent authority should not be able to approve a longer period than that fixed by collective agreements affecting at least half the workers in the industry.

The Office's commentary on the Questionnaire called attention to the fact that averaging over a period might permit of exceptionally long hours being worked during part of the period unless either or both of two safeguards were instituted. The first safeguard would be the limiting of the length of the averaging period since a short period would minimise though not altogether abolish the risk that the hours in any one week would be unduly long. The second would be the fixing of an over-riding maximum for the length of the working week, so that whatever the length of the averaging period the hours of work in any week of the period would not exceed an appropriate number. No provision on this point was contained in the text approved by the Conference in 1935 and in Question 21 Governments were asked for their views as to the advisability of including such a provision.

The majority of the replies are in favour of the inclusion of a provision concerning a maximum week. The Governments in favour are those of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Finland, France, Italy, Norway, Poland, Spain and the United States of America. The minority is formed by the Governments of Cuba, Denmark, Switzerland and the Union of South Africa, while the 'Iraqi Government abstains from expressing an opinion. The Swiss Government considers that the matter should be left to the discretion of the competent authority in each country and the Danish Government, though replying in the negative,

considers that the daily and weekly limits fixed by the Conventions already adopted concerning hours of work in industrial undertakings and in commerce and offices should be respected. The Polish and United States Government also suggest that the maximum should be forty-eight hours a week.

On the question of the method by which the maximum should be fixed, nearly all the Governments agree that the procedure should be the same as that for determining the length of the averaging period. The United States Government considers that both the length of the averaging period and the maximum working week should be prescribed by the Draft Convention itself. The Iraqi Government again abstains from a reply, as do the Governments of Cuba and the Union of South Africa, which reply in the negative on the first point. The Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Finland, France, Italy, Norway, Spain and Switzerland reply to the question in the affirmative, the Chilean Government adding the suggestion that a definite figure should be given in the Recommendation.

It will be seen that the majority of the replies are in favour of the maintenance of the provisions of the text of 1935 dealing with hours of work and averaging, supplemented by an additional provision concerning the fixing of a maximum limit for hours of work in any week of the averaging period. The Office accordingly submits the following text for the consideration of the Conference:

#### ARTICLE 2

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average the competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which this average may be calculated and the maximum number of hours that may be worked in any week.

### Limitation of Daily Hours of Work

#### *Desirability of Daily Limitation*

#### Question 22 (Replies on pp. 53 to 55)

The text approved by the Conference in 1935 provided for the limitation of hours of work by the week only and included no provision concerning the limitation of hours by the day. In Questions 22 to 25 Governments were asked whether they considered

provision for daily limitation desirable and consequentially what provision should be made for the limitation of any permitted excess over the daily limit which might be fixed.

Most of the Governments favour the fixing of a daily limit. The Danish and the Finnish Governments reply to the question in the negative, though the former considers that the daily limits fixed by the existing Conventions on hours of work should be respected. Affirmative replies are given by the Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, France, 'Iraq, Italy, Norway, Poland, Spain, Switzerland, the Union of South Africa and the United States of America. These fourteen Governments are, however, divided on the question of what the daily limit should be. Eight of them, namely the Governments of Belgium, the Canadian Province of Manitoba, France, 'Iraq, Italy, Norway, Poland and the United States of America suggest a daily limit of eight hours. So also does the South African Government with, however, the qualification "as laid down in the Washington Hours Convention", which, it will be remembered, gives a certain latitude as regards arrangements of hours and permits in certain circumstances a working day of nine hours or even more. The Brazilian and Chilean Governments suggest a limit below eight hours, the Swiss Government a limit above eight hours, and the Cuban and Spanish Governments make no suggestions on this point.

### *Hours in Excess of Daily Limit*

Questions 23 to 25 (Replies on pp. 55 to 59)

The possibility of allowing the daily limit of hours to be exceeded, firstly, in the case of continuous process work and, secondly, in any other cases, was raised in Question 23. The United States Government, being opposed to a forty-two-hour weekly limit for continuous processes, does not reply on the first point. The Governments of Belgium, Denmark, France and Poland are opposed to allowing any excess of hours over the daily limit fixed, the Danish Government again referring to the limits imposed by existing Conventions and the Polish Government being prepared to allow the working of extra hours to permit of the periodical change-over of shifts. On the other hand, the Governments of Brazil, the Canadian Province of Manitoba, Chile, Cuba, Finland, 'Iraq, Italy, Norway, Spain, Switzerland and the Union of South Africa agree that hours in excess of the daily limit should be permissible for continuous processes. But the Cuban Government's reply appears to relate only to preparatory, complementary and intermittent work, which is dealt with in a later question; if this is so the number of Governments replying in the affirmative on this point is reduced from ten to nine. The Chilean Government proposes only a slight increase in the working day for continuous processes (in the proportion of forty-two to forty) and the 'Iraqi Government would leave the whole question to the discretion of the competent authority.

The question of allowing a longer working day in other cases produced a considerable variety of replies. Cases of *force majeure* and of preparatory, complementary and intermittent work are raised by the Brazilian and Cuban Governments, but these cases are in fact provided for by provisions of the proposed Draft Convention other than that now under consideration. The Provincial Government of Manitoba suggests allowing a longer day "in real emergencies", which again would be covered by a later Article of the Draft Convention. The Chilean Government proposes that the provisions of the Washington Convention on hours of work should be followed, so that apart from cases of *force majeure* agreement between employers and workers and in some cases the sanction of the competent authority would be required for the working of longer hours. Discretionary power for the competent authority is suggested by the Governments of Finland, 'Iraq and Switzerland, and also with the limitation that the cases should be exceptional by the Spanish Government. An extension in exceptional cases not otherwise specified is suggested by the South African Government. Two special cases are mentioned by the Brazilian and Norwegian Governments, the former suggesting that extension of hours should be allowed in order to secure the satisfactory completion of work already begun (a case which might be covered by another provision to be considered later) and the latter that extension should be allowed in seasonal establishments and other undertakings in which irregularity is due to the nature of the work. The Italian Government makes no suggestions on this point and the United States Government is opposed to any extension beyond the eight-hour limit except by way of overtime.

If a working day in excess of the prescribed limit is to be allowed, further questions arise as to whether any limit should be fixed to the amount of the excess, how that limit should be fixed, whether the employer should be required to apply for a permit for the working of excess hours and whether the competent authority should be required to consult the organisations concerned before granting a permit. These issues were raised in Questions 24 and 25.

On the first issue the Danish Government again refers to the Washington and later Hours Conventions and the United States Government is, as has already been shown, opposed to any excess over the eight-hour limit. The Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, France, Italy, Norway and Poland agree that there should be a limit to the excess hours but disagree as to how it should be fixed. The Governments of Belgium, Brazil, the Canadian Province of Manitoba, Cuba and France consider that the Draft Convention itself should specify the permitted excess; Belgium suggests a nine-hour day as the over-riding maximum, Cuba an eight-hour day, Manitoba a maximum excess of three hours a day, Brazil two hours a day, and France one hour a day subject to authorisation by the competent authority after consultation with the organisations concerned. The other Governments, however, are in favour of leaving the

permitted excess to be prescribed by the competent authority. Most of them agree that the competent authority should be required to consult the organisations concerned before taking a decision, but the Polish and South African Governments consider that such consultation should be optional.

The Governments are fairly evenly divided on the question whether the permission of the competent authority should be required for the working of excess hours. The Belgian, Manitoban, Cuban, Finnish, French, Norwegian, Spanish and South African Governments consider that such permission should be required. The Brazilian, Chilean, Danish, Polish and Swiss Governments are opposed to this requirement, the Brazilian and Swiss Governments both suggesting that the employer should be required to inform the competent authority when excess hours are worked. The Italian Government does not give a specific reply on this point.

Of the ten Governments that reply to the question whether consultation with the organisations concerned before a permit is issued should be mandatory, seven, those of Belgium, Chile, Cuba, Finland, France, Norway and Spain, give affirmative replies, though the Spanish Government would not insist on consultation in cases of urgency. The Canadian Provincial Government of Manitoba considers that there should be consultation as regards the regulations under which permits would be issued, but not in respect of the individual permits. The Iraqi and South African Governments reply in the negative.

It will be seen that while there is a majority of replies in favour of the limitation of the hours of work by the day as well as by the week and of allowing this daily limit to be exceeded in the case of work on continuous processes, there is a considerable diversity of opinion on all the other questions. The fixation of a daily limit offers, of course, the advantage of safeguarding the workers against excessively long hours on some days of the week—a practice which would not be adequately compensated by shorter hours for the remainder of the week. On the other hand, the fixing of a daily limit would introduce a considerable degree of rigidity into the arrangement of weekly hours of work, and if this rigidity is to be mitigated by concessions in respect of certain processes or in certain circumstances in order to take account of the very varied technical requirements of public works operations, it will be necessary to include in the Draft Convention provisions dealing with a number of important questions of detail on which there is an appreciable diversity of opinion among the Governments. The question of a daily limitation of hours also has a reaction upon the question of overtime—a point which is emphasised by the replies of the United States Government. It would be difficult to devise the series of provisions necessary for dealing with the daily limit of hours of work and permitted extensions of hours beyond that limit in a way which would meet with general approval. Moreover, inasmuch as Governments would be in a position to impose any conditions they thought fit in the particular circumstances of each public works job,

since they would be financing or subsidising the works, it does not seem indispensable that the Draft Convention itself should contain provisions on this subject. In these circumstances the Office, while calling the attention of the Conference to the situation disclosed by the replies to the Questionnaire, does not itself propose to introduce into the text approved by the Conference in 1935 any provision relating to the limitation of hours of work by the day as well as by the week.

### Exceptions

#### *Preparatory, Complementary and Intermittent Work*

Question 26 (Replies on pp. 60 to 62)

With the exception of the South African and United States Governments there is unanimity in favour of allowing a longer working week in the case of persons engaged on preparatory and complementary work (for example, firemen and engineers) and on work of an intermittent character (for example, watchmen and gatekeepers). The South African Government considers that the second type of case should be dealt with by allowing the competent authority to grant at its discretion exemption from the application of the Convention. The United States Government is of opinion that persons employed on preparatory or complementary work who may have to work longer hours should be regarded as working overtime, and that the fact that a worker may be inactive for a part of the time while he is "on the job" does not justify his extending his hours of work.

Nearly all the Governments also agree that hours of work in these cases should be fixed by regulations made by the competent authority in each country. The Cuban Government, while agreeing to this proposal, also suggests that a maximum should be laid down in the Draft Convention of eight hours a day and forty-two hours a week. The South African Government considers that it should be optional and not mandatory for the competent authority to make regulations on this subject. The Swiss Government proposes a different procedure, namely, that the competent authority should issue permits to meet such cases instead of making regulations, and suggests that there may be cases in which it would be desirable to fix the minimum rest period rather than the maximum hours of work.

In view of the general agreement among Governments the Office proposes to maintain unchanged the Article on this subject appearing in the text of 1935, except for the addition of a provision designed to meet the exceptional cases referred to by the Swiss Government in its reply to Question 12.

As has already been pointed out, the Office feels that the suggestion made by the Swiss Government should be submitted to the consideration of the Conference but in a somewhat different



form. In the case of works carried out at high altitudes or in very high latitudes, or in similarly exceptional circumstances, there may be real difficulties in bringing to and housing on the spot the large numbers of workers who would be required with a short working week to secure the completion of the work within the restricted period during which the physical conditions permit work to be done. From the point of view of the workers themselves, if they are obliged to live away from their families and are isolated from normal opportunities of recreation it is doubtful if extra hours of leisure would be regarded by them as having their usual value. Moreover, where a large body of workers has to be housed, fed and generally looked after in a remote spot, a special staff must be engaged for this purpose. This staff, being employed on the works, would come within the scope of the Draft Convention unless expressly exempted, though there would probably be difficulty in regulating their hours of work on exactly the same basis as those of the building and civil engineering workers. Finally, there are cases in which the employment of specialised workers may be necessary—the Swiss Government cites miners and divers as examples—and the number of such workers available in a particular country may be very limited. Nevertheless, while all these difficulties may be admitted, it would be inadvisable to leave hours of work in these special cases entirely uncontrolled.

The Office therefore submits to the consideration of the Conference a proposal which places upon the competent authority the responsibility for deciding whether the circumstances really justify exceptional measures, at the same time indicating clearly the kind of abnormal conditions that are in view. It also provides that the extent to which the standard hours may be exceeded shall be prescribed by the competent authority, so that even in these quite exceptional cases hours of work will be subject to regulation.

The further question arises as to whether consultation with the employers' and workers' organisations should be required before a decision is taken by the competent authority in virtue of this provision. As the Conference still has to take a decision on this new provision, and as there is an appreciable number of Governments opposed to the multiplication of cases in which consultation is made compulsory by the terms of the Draft Convention, the Office does not itself make any proposal in this connection, but leaves the matter to the judgment of the Conference. In practice it would seem that any Government taking action in virtue of such a provision would be bound to make full enquiries into all the circumstances of the case, so that the issue is perhaps not of great importance.

The completed text of Article 3 as submitted by the Office would therefore read as follows, paragraph 3 embodying the new proposal:

#### ARTICLE 3

1. The competent authority may by regulations made after consultation with the organisations of employers and workers concerned where such exist

provide that the limits of hours prescribed in the preceding Articles may be exceeded in the case of:

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking or branch thereof or of the shift; and
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls.

2. The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article.

3. The competent authority may permit the limits of hours prescribed in the preceding Article to be exceeded to a prescribed extent in cases in which this is necessary, if serious hindrance to the execution of a particular public work is to be avoided, on account of abnormal circumstances such as the inaccessibility of the site or the impossibility of engaging sufficient qualified labour.

### *Emergencies*

Question 27 (Replies on pp. 62 to 64)

The replies to this question show complete unanimity as to permitting the standard hours to be exceeded so far as may be necessary in the event of accident and in similar cases, though the United States Government adds that any extra hours worked should be paid for as overtime.

In view of these replies the Office proposes to maintain unchanged the text considered last year, which was in the following terms:

#### ARTICLE 4

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*;
- .....

### *Other Special bases*

Question 28 (Replies on pp. 64 to 66)

This question deals with three special cases in which it might be considered that the working of extra hours would be justified.

The periodical change-over of shifts so as to secure a convenient rotation is facilitated under certain systems of shift working if one shift works longer than the normal spell at certain intervals. All the Governments with the exception of those of the Canadian Province of Manitoba, 'Iraq and the United States of America are in favour of permitting work in excess of the prescribed limits in such cases. The 'Iraqi Government is opposed in principle but suggests consideration of allowing the individual Governments to deal with this matter by regulations. The United States Government considers that extra time worked in such cases should be regarded as overtime work with extra pay.

The position of the Governments is slightly changed on the question whether extra time should be allowed to make good the absence

of one or more members of a shift, the Polish Government replying in the negative and the Manitoban Government in the affirmative.

The third special case raised in this question is that in which the continued presence of certain persons is necessary in order to allow the completion of an operation which lasts longer than the normal duration of a shift or cannot for technical reasons be interrupted at will. The United States Government considers that such extra work should be overtime and the 'Iraqi Government, while opposed in principle, suggests consideration of giving discretionary power to Governments to deal with the matter. All the other replies are in favour of allowing the working of extra time.

There is, however, some diversity of opinion shown in the replies to the supplementary question as to what restrictions, if any, should be imposed on the working of longer hours in these cases. The Belgian Government suggests a maximum day of ten hours and compensation for the extra hours by an equal time off duty. The Spanish Government also suggests compensation. The Canadian Provincial Government of Manitoba suggests that extra pay should be given for extra time worked. The French Government proposes to fix definite limits to the amount of extra time that may be worked. The Danish Government suggests a provision on the lines of Article 6 of the Washington Hours Convention, that is to say, the fixing of the maximum hours by regulations to be made by the competent authority in each country after consultation with the employers' and workers' organisations concerned, and payment at one-and-a-quarter times the normal rate. Settlement of the restrictions by the competent authority is also suggested by the Governments of Finland, 'Iraq, Switzerland and the Union of South Africa and by the Government of Chile, which, however, proposes that a maximum number of hours might be indicated in a Recommendation. The Brazilian Government considers that the Draft Convention should reduce to a minimum the exceptions to the standard week. The Norwegian Government considers that no restrictions should be laid down in the Draft Convention. In the third special case mentioned above the Polish Government considers that any extra hours worked should be notified as soon as possible to the inspection authority. The Italian Government gives no reply on this point.

The replies of the Governments would clearly have justified the inclusion in the Office's proposals of provisions covering all three of the cases dealt with in this question. On consideration, however, the Office has come to the conclusion that no special provision is really necessary to deal with the change-over of shifts. Provision for averaging hours of work over a period and for any special arrangements of hours that may be rendered necessary by averaging is already made in Article 2, and while under certain systems of shift rotation a longer spell may be necessary for one shift for the purpose of the change-over, there does not seem to be any reason why there should be any excess in hours of work reckoned as a weekly average.

The second case, which also relates to shift working, is of course very different. The unforeseen absence of one or more members of a shift is in the nature of an accident, which might hold up the work of the shift unless it were possible to make good the deficiency by calling on members of another shift. In this case, therefore, the Office has decided to maintain the second clause of the Article dealing with emergencies in the text of 1935. This clause read as follows:

ARTICLE 4

- (b) in order to make good the unforeseen absence of one or more members of a shift.

The third case is not a matter of emergency but rather of overtime. Cases may well arise in which an operation, once begun, may have to be carried through to completion and cannot be stopped when the usual "knocking off" time arrives. But this fact does not in itself justify the working of longer hours by the workers already engaged on the job unless they cannot be replaced by others, and if this is the situation they would seem to be clearly entitled to overtime pay. It might perhaps be said that the case would be sufficiently covered by the ordinary overtime provisions of the Draft Convention, but as it is a special case affecting in each instance probably only a small number of workers, occurring only occasionally, and not affecting the works as a whole, it would seem desirable to deal with it specially. The Office therefore proposes the addition to the text of 1935 of an Article providing for overtime to a limited extent in special cases of this kind, the responsibility for deciding the maximum amount of overtime allowed and the kind of case in which it might be worked being placed on the competent authority. The text of the proposed Article is as follows:

ARTICLE 5

1. The limits of hours prescribed in Articles 2 and 3 may be exceeded in cases where the continued presence of particular persons is necessary for the completion of an operation which for technical reasons cannot be interrupted.
2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which this Article applies and the maximum number of hours in excess of the prescribed limits which may be worked by the persons concerned.
3. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

Overtime

*Overtime Allowances*

Questions 29, 30 and 31 (Replies on pp. 66 to 71)

The text approved by the Conference in 1935 made provision for the working of overtime in two ways. The first provided for the grant by the competent authority of an allowance of overtime for

exceptional cases of pressure of work. The allowance was to be granted under regulations made after consultation with the employers' and workers' organisations concerned, so as not to permit of the staff being employed for more than a hundred hours of overtime in any year. In Questions 29, 30 and 31, Governments were asked for their views on this provision.

With the exception of the Belgian Government, all the Governments replying consider that provision should be made in the Draft Convention for allowances of overtime for exceptional cases of pressure of work, though the Brazilian Government repeats its view that departures from the standard week should be reduced to the indispensable minimum; the French Government would restrict allowances of overtime to work on non-continuous processes, and the Spanish Government would limit allowances to cases where it is impracticable to engage additional staff.

Thirteen Governments—those of Brazil, the Canadian Province of Manitoba, Chile, Denmark, Finland, France, 'Iraq, Italy, Poland, Spain, Switzerland, the Union of South Africa, and the United States—agree that the grant of an allowance of overtime should be at the discretion of the competent authority in each country. The Norwegian Government considers that overtime should be prohibited except in cases provided for in the national laws and regulations. The Belgian Government, which is opposed to overtime allowances, and the Cuban Government reply in the negative to the question on this point.

On the further question whether consultation with the employers' and workers' organisations should be mandatory before an allowance of overtime is granted, the replies of Governments are fairly evenly divided. The Governments of Belgium, Chile, Finland, France, Italy, Spain, Switzerland and the United States of America are in favour of making consultation mandatory. The United States Government goes further and would not allow the competent authority to approve any overtime in excess of that allowed in collective agreements between employers and workers affecting at least one-half of the workers in industry. The Norwegian Government does not give a specific reply on this point. The Canadian Provincial Government of Manitoba and the Government of Cuba reply in the negative and the Brazilian, Danish, 'Iraqi, Polish and South African Governments consider that consultation should be optional.

In the third question of this group Governments were asked whether the Draft Convention should impose any restriction on the amount of an allowance of overtime, and, if so, how it should be reckoned and what the maximum allowance should be. Nine Governments are in favour of a restriction being imposed by the Draft Convention. These are the Governments of Belgium, the Canadian Province of Manitoba, Chile, Cuba, France, Poland, Spain, Switzerland and the United States of America. The Danish Government also gives an affirmative reply if the overtime is not compensated by time off. The Finnish and the 'Iraqi Governments

reply to the question in the negative, and the Brazilian, Italian, Norwegian and South African Governments consider that the question of restrictions should be left to be regulated by the competent authority in each country.

All the replies, with the exception of those from Cuba, France and Spain, are in favour of making the restriction on overtime apply in respect of the individual worker and not in respect of the staff as a whole. It should be noted, however, that though the Brazilian Government expresses a preference for individual restriction as the standard, it appears to consider that the matter might be left to the discretion of the competent authority.

Various proposals are made as to what the maximum number of hours of overtime should be. The Belgian Government suggests a limit which would give a maximum working day of nine hours and working week of forty-five hours. The Chilean and Spanish Governments suggest a maximum of two hours' overtime a day, the latter Government suggesting also a limit of twelve hours a week. The Cuban Government suggests a maximum of eight hours a week. The French Government proposes a maximum allowance of sixty hours a year, the daily overtime not exceeding two hours. The Danish, Polish, Swiss and United States Governments suggest a maximum of one hundred hours a year with a daily maximum of four hours in the case of the Polish Government. The Norwegian Government suggests a maximum of two hundred hours a year, but this is to cover all kinds of overtime. The Brazilian and Italian Governments do not give any specific reply on the point but would apparently leave the maximum to be fixed by the competent authority.

In view of the general agreement that provision should be made for allowances of overtime and the diversity of opinion on some of the details, the Office does not feel justified in proposing any change from the text of the provision as regards overtime allowances, which was approved in 1935, except to make the allowance applicable in respect of the individual worker instead of the staff as a whole, there being a substantial majority of replies in favour of a change on this point. The text submitted is therefore as follows:

#### ARTICLE 6

1. The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with the organisations of employers and workers concerned where such exist, and no such allowance shall permit of any person being employed for more than one hundred hours of such overtime in any year.

#### *Overtime Permits*

Question 32 (Replies on pp. 71 to 74)

The second overtime provision in the text of 1935 provided for the grant by the competent authority to individual undertakings in certain circumstances of temporary permits for further overtime in respect of specified persons or classes of persons. Question 32

asked Governments for their views as to the maintenance or modification of this provision.

There is stronger opposition to the grant of overtime permits than to the grant of overtime allowances, for though the majority of replies to this question are in the affirmative, there are negative replies from Belgium, France, Norway and the United States of America. The Norwegian Government's reply is not altogether conclusive, since it refers to the reply on the question of overtime allowances, according to which the whole question of overtime would be dealt with under national laws and regulations. The United States Government considers that there should be no extension of overtime beyond the limit fixed in the provision for overtime allowances. The Belgian and French Governments' replies are a simple negative.

Restriction of the grant of temporary permits to cases in which the competent authority is satisfied of the impracticability of engaging additional staff is approved in most of the replies. The Belgian and French Governments again reply in the negative and the Swiss Government is of opinion that while the competent authority should obviously consider whether it is possible to engage additional staff this should be made an urgent recommendation and not a strict requirement. The Norwegian and United States Governments do not reply on this point in view of their replies on the previous point.

A limitation of the grant of permits in respect of specified persons or classes of persons is approved by the Governments of Brazil, Chile, Cuba, Denmark, Poland, Spain and Switzerland. The Belgian, Manitoban, French and 'Iraqi Governments reply in the negative, while the Finnish and South African Governments would leave this matter to the discretion of the competent authority in each country, The Italian Government does not give a specific reply on this point.

To the final question whether a restriction should be imposed by the Draft Convention on the amount of overtime to be worked by any person in virtue of a permit, the Governments of Belgium, Chile, Cuba, Denmark, Poland, Spain and Switzerland reply in the affirmative. The Finnish, French and 'Iraqi Governments reply in the negative, and the Italian and Manitoban Governments do not give any specific reply on the point. Different maxima are, however, suggested in the replies. The Belgian Government proposes that overtime should not bring up the working day to over nine hours or the working week to over forty-five hours. The Cuban Government proposes that the working week should not be allowed to exceed fifty-six hours. The Chilean Government suggests a maximum of two hours' overtime a day, while the Spanish Government appears to favour limits of two hours a day and twelve hours a week. The Danish, Polish and Swiss Governments proposed a limit of sixty hours' overtime a year.

On examination of the replies to this question in conjunction with the replies to the preceding group of questions relating to

overtime, the general conclusion would seem to be that while the necessity for some provision for overtime is recognised, there is a strong body of opinion among the Governments in favour of reducing the resort to overtime to the strict minimum necessary. The Office has therefore been led to consider whether any provision for overtime permits in addition to overtime allowances is really required. An addition has already been suggested to Article 2 which would permit of the working of longer hours in exceptional cases, and one of the conditions imposed is the impossibility of obtaining sufficient labour of the kind required, which is also a condition indicated in Question 32 in connection with overtime permits. A further provision for overtime in what may be regarded as cases of urgency is made in the proposed new Article 5. These new provisions, justifiable in themselves, would seem to weaken very decidedly the case for allowing further overtime, apart from and perhaps in addition to overtime under an allowance, on the lines laid down in paragraph 2 of Article 5 of last year's draft. For this reason, and in view of the desire of many Governments to restrict overtime, the Office has decided to omit from the draft it submits to the Conference the provision relating to overtime permits which appeared in last year's text.

### *Other Cases of Overtime*

Question 33 (Replies on pp. 74 to 76)

On the question whether overtime should be allowed in any other cases only four Governments make suggestions. The Finnish Government suggests that the matter should be left for decision by the competent authority in each country. The Italian Government also suggests that the matter should be left to the competent authority after consultation with the employers' and workers' organisations concerned. The French Government proposes that overtime should be allowed on work done for purposes of national defence or for a public service at the order of the Government. The United States Government repeats, in reply to this question, its objection to any overtime other than that provided for under the allowance system.

### *Overtime Pay*

Questions 34 and 35 (Replies on pp. 76 to 79)

All the Governments agree that the Draft Convention should prescribe payment at an increased rate for overtime worked under overtime allowances and permits. Seven Governments, namely, those of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Italy, Norway and the United States of America, consider that payment at overtime rates should also be prescribed in all other cases of overtime, as also does the Government of 'Iraq, at least as a general principle. The Danish and Spanish Governments also favour payment at overtime rates in other cases, but it is not quite certain from their replies that they intend this rule to apply to all other cases. The Finnish and South African Govern-



ments would leave the matter to the competent authority in each country. The French Government considers that the question should be determined in accordance with custom or collective agreements. The Governments of Poland and Switzerland are opposed to the stipulation being made in the Draft Convention for any cases of overtime other than overtime for exceptional pressure of work.

All the Governments, with the exception of the Government of Iraq, consider that the minimum rate of increase in pay for overtime should be prescribed in the Draft Convention. Three Governments consider that a uniform rate should be prescribed irrespective of when the overtime is worked. These are the Governments of Denmark, the Union of South Africa and the United States of America, the first two proposing a 25 per cent. increase and the last a 50 per cent. increase. Differential rates according to whether the overtime is worked during the day or the night or on Sundays and holidays are proposed by the Governments of eight countries, namely, Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, France, Italy and Poland. Four of these, namely, the Belgian, Manitoban, Italian and Polish Governments propose a 25 per cent. increase for overtime worked in the day, while the Cuban Government proposes 40 per cent., the Chilean Government 50 per cent., and the Brazilian Government does not suggest a figure. In the opinion of the Belgian Government, the 25 per cent. rate should apply only to the first two hours of overtime, the rate for any further overtime being raised to 50 per cent. Higher rates to be paid for night, Sunday and holiday overtime are specified by only four of these Governments, the Belgian Government proposing rates of 50 and 100 per cent., the Cuban and Polish Governments 50 per cent. for both night and holiday overtime, and the French Government 50 per cent. for day-time overtime on Sundays and holidays, 50 per cent. for night work on ordinary days and 75 per cent. for night work on Sundays or holidays. The Brazilian, Chilean and Italian Governments would leave the amount of the extra overtime rate for night, Sunday and holiday work to be settled nationally. Four Governments consider that the question of whether there should be differential rates should be settled nationally. These are the Governments of Finland, Norway, Spain and Switzerland, the Norwegian and Swiss Governments proposing a minimum of 25 per cent. for overtime in the day.

It will be seen that there is substantial agreement on prescribing a minimum increase of 25 per cent. for overtime in cases of exceptional pressure of work, but not as regards the fixing of special rates for overtime at night and on Sundays and holidays. In these circumstances, the Office proposes to maintain unchanged the text of 1935, which was as follows:

#### ARTICLE 6

- (1) . . . . .
- (2) Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

## Measures for Enforcement and Supervision

### *Obligations on Employers*

Question 36 (Replies on pp. 80 to 83)

The replies show complete unanimity as to the desirability of including in the Draft Convention a provision requiring employers to post notices giving details of the hours of work in operation and to keep records of overtime work and overtime payments.

The Office accordingly proposes the following text, which is substantially the same as that approved in 1935:

#### ARTICLE 7

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required:

- (a) to notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority,
  - (i) the hours at which work begins and ends;
  - (ii) where work is carried on by shifts, the hours at which each shift begins and ends;
  - (iii) where a rotation system is applied, a description of the system, including a time-table for each person or group of persons;
  - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks; and
  - (v) rest periods in so far as these are not reckoned as part of the working hours;
- (b) to keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 3 (3), 5 and 6 and of the payments made in respect thereof.

### *Annual Reports of Governments*

Question 37 (Replies on pp. 80 to 83)

To the question whether the Draft Convention itself should specify certain points on which full information should be given in the annual reports on the application of the Convention furnished by Governments, eight Governments reply in the affirmative. These are the Governments of Belgium, the Canadian Province of Manitoba, Chile, Cuba, Denmark, France, Italy and Spain. Negative replies are furnished by the Governments of Iraq, Poland and the Union of South Africa, while the replies of the Governments of Finland and Norway should also perhaps be regarded as negative. The Governments of Brazil and Switzerland do not furnish any reply.

A certain number of suggestions appear in the replies as to the points which might be specified in the Draft Convention, and these appear to follow generally on the lines of the provision made in the

text of 1935. The text submitted by the Office therefore includes a corresponding Article, as follows:

#### ARTICLE 8

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning:

- (a) the definitions adopted in virtue of Article 1, paragraph 2;
- (b) processes which the competent authority has recognised as necessarily continuous in character in virtue of Article 2, paragraph 2;
- (c) determinations made in virtue of Article 2, paragraph 4;
- (d) decisions taken in virtue of Article 3; and
- (e) allowances of overtime granted in virtue of Article 6.

\* \* \*

#### SAVING CLAUSE

#### ARTICLE 9

The Committee on the reduction of hours of work of the Nineteenth Session of the Conference, after completing its examination of proposed Draft Conventions relating to a number of industries, decided to add to the texts an Article expressly safeguarding established practice in cases where this afforded more favourable conditions than those provided by the Draft Convention itself. The Article now proposed by the Office reproduces the provision approved by the Conference in 1935, completing it by a reference to law as well as to custom and agreement.

Nothing in this Convention shall affect any law, custom, or agreement between employers or workers which ensures more favourable conditions than those provided for by this Convention.

#### **The Relation between the Proposed Draft Convention on Public Works and the Forty-Hour Week Convention, 1935**

Questions 38 to 41 (Replies on pp. 84 to 88)

In the first of the four questions in this part of the Questionnaire Governments were asked whether they considered it desirable to indicate in the text of the proposed Draft Convention the connection between this Draft Convention and the Forty-Hour Week Convention, 1935, which declares approval of the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence.

The great majority of the replies are in favour of including such an indication in the text now under consideration. The Polish and Swiss Governments reply in the negative. The Government of Iraq abstains from replying, having no decided views on this

issue. The majority in favour consists of the Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Cuba, Denmark, Finland, France, Italy, Norway, Spain, the Union of South Africa and the United States of America.

The next two questions deal with two alternative, though not necessarily mutually exclusive, methods of indicating the connection between the two Draft Conventions. The first is the inclusion in the Preamble of the proposed Draft Convention of a passage indicating that in adopting the Draft Convention the Conference confirms the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living. The second is the incorporation of the terms of the Forty-Hour Week Convention, 1935, as an Article in the proposed Draft Convention. The Governments of Belgium, Brazil, the Canadian Province of Manitoba, Chile, Finland and Spain reply in the affirmative to both suggestions, though the Spanish Government prefers the first suggestion. The Iraqi Government abstains from replying and the Italian Government does not indicate any clear preference as between the two proposals. The first suggestion also receives the support of the Governments of Cuba, Denmark, France, Norway, Spain and the Union of South Africa, but is opposed by the Governments of Poland, Switzerland and the United States of America. The second suggestion receives the support of the Government of the United States of America, in addition to that of the Governments already named as accepting both proposals. It should be observed, however, that the provision that the United States Government proposes to incorporate in the Draft Convention does not reproduce the precise terms of the Forty-Hour Week Convention, 1935, but is modelled on the Resolution adopted by the Conference together with that Convention. The terms of the Article proposed by the United States Government are as follows: "Any decrease in hours of work due to this Convention shall be accompanied by a proportionate increase in the hourly rate of pay, so that the application of this Convention shall not, as a consequence, reduce the weekly income of the workers, nor lower their standard of living". On the other hand, the proposal to incorporate the terms of the Forty-Hour Week Convention as a special Article is opposed by the Governments of Cuba, Denmark, France, Norway, Poland, Switzerland and the Union of South Africa and also, though less definitely, by the Spanish Government.

No proposals are made by Governments in response to the last question, which asked for suggestions as to a provision concerning the maintenance of the standard of living in the event of the replies to the two previous questions being in the negative.

The analysis of the replies on this issue would be incomplete without reference to the replies made by Governments which have not answered the Questionnaire in detail. The only one of these Governments that discusses this point is the British Government, which considers that neither in the Forty-Hour Week Convention, 1935, nor in the Resolution adopted by the Conference

together with that Convention, is there any provision which secures the maintenance of earnings as an essential condition of the reduction of hours. This contention is similar to that put forward by the Swiss Government in its reply to this part of the Questionnaire, but this Government declares expressly that it is opposed to any reduction of hours of work which is subjected to the condition that it must not entail a lowering of the standard of living of the workers. The British Government does not make any such explicit declaration of its attitude, on this issue, though, as will be remembered, it raises a second objection on another issue. Its reply leaves open the two alternatives: either it is opposed, like the Swiss Government, to any Draft Convention which makes the reduction of hours of work conditional on the maintenance of earnings or of the standard of living of the workers, or else it would be prepared to agree to such a Draft Convention if a means can be found to make the condition of the maintenance of earnings effective. If it may be presumed that the latter alternative represents the attitude of the British Government, it will nevertheless be noted that the Government does not offer any suggestion as to the method of achieving the end in view.

It is, of course, possible that further suggestions will be made in the course of the discussions of the Conference, but meanwhile the Office must base its proposals upon the replies of Governments to the Questionnaire. The foregoing analysis shows that while there is an appreciable diversity of views among the Governments, there is nevertheless a preponderance of opinion in favour of including in the Preamble of the proposed Draft Convention a passage indicating that in adopting the Draft Convention the Conference confirms the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living. This, it will be remembered, was the course followed by the Conference itself in the case of the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935. It is true that such a declaration in the Preamble would not, of itself, have the same legal binding force as the precise stipulation contained in the body of the Convention, but this is not to say that it would have no value of any kind. In the case of a State which ratified both the Forty-Hour Week Convention, 1935, and the Draft Convention on Public Works, there could be no doubt that it would have to comply with the provisions of the earlier Convention in taking measures relating to hours of work on public works. In the case of a State which ratified the Draft Convention on Public Works without having ratified the Forty-Hour Week Convention, while it would be true that it would not undertake any precise legal obligation internationally except in respect of the provisions contained in the body of the Convention, it would also be true that it could not simply ignore the intentions of the Forty-Hour Week Convention without affronting public opinion both in its own country and internationally. The obligation undertaken would be moral rather than legal, but would nevertheless be valuable.

No doubt it would be desirable theoretically to include in the Draft Convention precise stipulations concerning the maintenance of the earnings and the standard of living of the workers, but the framing of such stipulations appears to be in practice impossible. The only suggestion made is that of the United States Government, but even if this suggestion were to commend itself to the necessary majority of the Conference it is difficult to see that its effects would be anything more than ephemeral. This suggestion provides for an increase in rates of pay to accompany the reduction in hours of work, but it leaves open—as indeed is inevitable—the possibility that rates of pay may be changed again, immediately afterwards, for any of the many reasons which may be adduced in support of a reduction of wages. The problem could be solved, if at all, only by imposing on States an obligation to exercise a continuous control over earnings, and that is a responsibility which would not commend itself to the majority of Governments or of employers' or workers' organisations.

For these reasons the Office proposes that, as in the case of the Convention concerning Glass-Bottle Works, the Preamble to the Draft Convention now under consideration should include the following phrase:

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living.

\* \* \*

With these explanations and comments the Office submits to the Conference the proposed Draft Convention concerning the reduction of hours of work on public works the text of which is given in the following pages.

## PROPOSED DRAFT CONVENTION CONCERNING THE REDUCTION OF HOURS OF WORK ON PUBLIC WORKS

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The General Conference of the International Labour Organisation,

Having met at Geneva in its Twentieth Session on 4 June 1936;

Considering that the question of the reduction of hours of work on public works undertaken or subsidised by Governments is the third item on the Agenda of the Session;

Confirming the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living;

Considering it to be desirable that this principle should be applied by international agreement to public works;

adopts this .... day of June one thousand nine hundred and thirty-six the following Draft Convention ....:

### ARTICLE 1

1. This Convention applies to persons directly employed on building or civil engineering works financed or subsidised by central Governments.

2. For the purpose of this Convention the precise scope of the terms "building or civil engineering", "financed" and "subsidised" shall be delimited in each country by the competent authority after consultation with the organisations of employers and workers concerned where such exist.

3. The competent authority may, after consultation with the organisations of employers and workers concerned where such exist, exempt from the application of this Convention:

- (a) persons employed in undertakings in which only members of the employer's family are employed;
- (b) persons occupying positions of supervision or management or engaged in technical control of operations who do not ordinarily perform manual work.

## AVANT-PROJET DE CONVENTION CONCERNANT LA RÉDUCTION DE LA DURÉE DU TRAVAIL DANS LES TRAVAUX PUBLICS

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La Conférence générale de l'Organisation internationale du Travail,

S'étant réunie à Genève, le 4 juin 1936, en sa vingtième session;

Considérant que la question de la réduction de la durée du travail dans les travaux publics entrepris par les gouvernements ou subventionnés par eux constitue la troisième question à l'ordre du jour de la session;

Confirmant le principe consacré dans la convention des quarante heures, 1935, comportant aussi le maintien du niveau de vie des travailleurs;

Considérant qu'il est désirable que ce principe soit appliqué par accord international aux travaux publics;

adopte, ce .... jour de juin mil neuf cent trente-six le projet de convention ci-après .....

### ARTICLE 1

1. La présente convention s'applique aux personnes directement occupées aux travaux du bâtiment et du génie civil financés ou subventionnés par les gouvernements centraux.

2. Aux fins de la présente convention, la portée exacte des expressions « bâtiment et génie civil », « financés », « subventionnés » sera définie par l'autorité compétente, après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe.

3. L'autorité compétente peut, après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, exempter de l'application de la présente convention:

- a) les personnes employées dans les entreprises où sont seuls occupés les membres de la famille de l'employeur;
- b) les personnes occupant un poste de surveillance ou de direction ou de contrôle technique des opérations et ne participant normalement à aucun travail manuel.



## ARTICLE 2

1. The hours of work of persons to whom this Convention applies shall not exceed an average of forty per week.

2. In the case of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two.

3. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the processes to which paragraph 2 of this Article applies.

4. Where hours of work are calculated as an average the competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the number of weeks over which this average may be calculated and the maximum number of hours that may be worked in any week.

5. For the purpose of this Convention, the term "hours of work" means the time during which the persons employed are at the disposal of the employer and does not include rest periods during which they are not at his disposal.

## ARTICLE 3

1. The competent authority may by regulations made after consultation with the organisations of employers and workers concerned where such exist provide that the limits of hours prescribed in the preceding Articles may be exceeded in the case of:

- (a) persons employed on preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking or branch thereof or of the shift; and
- (b) persons employed in occupations which by their nature involve long periods of inaction during which the said persons have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls.

2. The regulations referred to in paragraph 1 shall determine the maximum number of hours which may be worked in virtue of this Article.

3. The competent authority may permit the limits of hours prescribed in the preceding Article to be exceeded to a prescribed extent in cases in which this is necessary, if serious hindrance to

## ARTICLE 2

1. La durée du travail des personnes auxquelles s'applique la présente convention ne doit pas dépasser en moyenne quarante heures par semaine.

2. Pour les personnes qui travaillent par équipes successives à des travaux dont le fonctionnement continu doit, en raison même de la nature du travail, être nécessairement assuré sans interruption à aucun moment du jour, de la nuit et de la semaine, la durée hebdomadaire du travail peut atteindre quarante-deux heures.

3. L'autorité compétente déterminera, après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, les travaux auxquels s'applique le paragraphe 2 du présent article.

4. Quand la durée du travail est calculée d'après une durée moyenne, l'autorité compétente doit, après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, fixer le nombre de semaines sur lequel cette durée moyenne peut être calculée, ainsi que le nombre maximum des heures de travail hebdomadaire.

5. Aux fins de la présente convention, l'expression « durée du travail » signifie le temps pendant lequel le personnel est à la disposition de l'employeur, et ne comprend pas les repos pendant lesquels il n'est pas à sa disposition.

## ARTICLE 3

1. L'autorité compétente peut, par des règlements pris après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, permettre de dépasser la limite des heures de travail fixée à l'article précédent dans le cas :

- a) de personnes employées à des travaux préparatoires ou complémentaires qui doivent être nécessairement exécutés en dehors des limites assignées au travail général de l'entreprise, de la branche d'entreprise, ou de l'équipe;
- b) de personnes employées à des occupations qui, par leur nature, comportent de longues périodes d'inactivité pendant lesquelles ces personnes n'ont à déployer ni activité matérielle ni attention soutenue, ou ne restent à leur poste que pour répondre à des appels éventuels.

2. Les règlements prévus au paragraphe 1 doivent déterminer le nombre maximum d'heures de travail qui peuvent être effectuées en vertu du présent article.

3. L'autorité compétente peut autoriser, en en fixant l'étendue, le dépassement des limites de durée du travail prescrites dans l'article précédent lorsque cela est rendu nécessaire pour éviter

the execution of a particular public work is to be avoided, on account of abnormal circumstances such as the inaccessibility of the site or the impossibility of engaging sufficient qualified labour.

#### ARTICLE 4

The limits of hours prescribed in the preceding Articles may be exceeded, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*; or
- (b) in order to make good the unforeseen absence of one or more members of a shift.

#### ARTICLE 5

1. The limits of hours prescribed in Articles 2 and 3 may be exceeded in cases where the continued presence of particular persons is necessary for the completion of an operation which for technical reasons cannot be interrupted.

2. The competent authority shall, after consultation with the organisations of employers and workers concerned where such exist, determine the operations to which this Article applies and the maximum number of hours in excess of the prescribed limits which may be worked by the persons concerned.

3. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

#### ARTICLE 6

1. The competent authority may grant an allowance of overtime for exceptional cases of pressure of work. Such an allowance shall only be granted under regulations made after consultation as to the necessity of such overtime and the number of hours to be worked with the organisations of employers and workers concerned where such exist, and no such allowance shall permit of any person being employed for more than one hundred hours of such overtime in any year.

2. Overtime worked in virtue of this Article shall be remunerated at not less than one-and-a-quarter times the normal rate.

qu'une gêne sérieuse ne soit apportée à l'exécution d'un ouvrage déterminé, en raison de circonstances exceptionnelles telles que des difficultés d'accès au lieu du travail ou l'impossibilité d'embaucher une main-d'œuvre qualifiée et suffisante.

#### ARTICLE 4

Les limites des heures de travail prescrites aux articles précédents peuvent être dépassées, mais uniquement dans la mesure nécessaire pour éviter qu'une gêne sérieuse ne soit apportée à la marche normale de l'entreprise:

- a) en cas d'accident survenu ou imminent ou en cas de travaux d'urgence à effectuer aux machines ou à l'outillage, ou en cas de force majeure;
- b) pour faire face à l'absence imprévue d'une ou plusieurs personnes d'une équipe.

#### ARTICLE 5

1. Les limites des heures de travail fixées aux articles 2 et 3 peuvent être prolongées dans le cas où la prolongation de la durée du travail de certaines personnes est nécessaire pour l'achèvement d'une opération dont l'interruption est techniquement impossible.

2. L'autorité compétente déterminera, après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, les opérations auxquelles s'applique le présent article et le nombre maximum des heures dépassant les limites prescrites pendant lesquelles le personnel envisagé pourra travailler.

3. Les heures supplémentaires effectuées en vertu des dispositions du présent article doivent être rémunérées à un taux majoré d'au moins vingt-cinq pour cent par rapport au salaire normal.

#### ARTICLE 6

1. L'autorité compétente peut attribuer un contingent d'heures supplémentaires pour faire face à des surcroîts de travail extraordinaires. Ce contingent ne peut être attribué qu'en vertu de règlements édictés après consultation des organisations d'employeurs et de travailleurs intéressés, s'il en existe, sur la nécessité de ces heures supplémentaires et sur leur nombre. Le maximum des heures ainsi accordées ne doit pas permettre qu'une personne soit employée plus de cent heures supplémentaires par an.

2. Les heures supplémentaires effectuées en vertu des dispositions du présent article doivent être rémunérées à un taux majoré d'au moins vingt-cinq pour cent par rapport au salaire normal.

## ARTICLE 7

In order to facilitate the effective enforcement of the provisions of this Convention, every employer shall be required:

- (a) to notify, by the posting of notices in conspicuous positions in the works or other suitable place or by such other method as may be approved by the competent authority,
  - (i) the hours at which work begins and ends;
  - (ii) where work is carried on by shifts, the hours at which each shift begins and ends;
  - (iii) where a rotation system is applied, a description of the system, including a time-table for each person or group of persons;
  - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks; and
  - (v) rest periods in so far as these are not reckoned as part of the working hours;
- (b) to keep a record in the form prescribed by the competent authority of all additional hours worked in virtue of Articles 3 (3), 5 and 6 and of the payments made in respect thereof.

## ARTICLE 8

The annual reports submitted by Members upon the application of this Convention shall include more particularly full information concerning:

- (a) the definitions adopted in virtue of Article 1, paragraph 2;
- (b) processes which the competent authority has recognised as necessarily continuous in character in virtue of Article 2, paragraph 2;
- (c) determinations made in virtue of Article 2, paragraph 4;
- (d) decisions taken in virtue of Article 3; and
- (e) allowances of overtime granted in virtue of Article 6.

## ARTICLE 9

Nothing in this Convention shall affect any law, custom or agreement between employers and workers which ensures more favourable conditions than those provided by this Convention.

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## ARTICLE 7

En vue de faciliter l'application effective des dispositions de la présente convention, chaque employeur doit:

- a) faire connaître au moyen d'affiches apposées d'une manière apparente dans l'entreprise ou dans tout autre lieu convenable, ou selon tout autre mode approuvé par l'autorité compétente:
  - i) les heures auxquelles commence et finit le travail;
  - ii) si le travail s'effectue par équipes, les heures auxquelles commence et finit le tour de chaque équipe;
  - iii) s'il est fait application d'un système de roulement, une description de ce système, y compris un horaire de travail pour chaque personne ou groupe de personnes;
  - iv) les dispositions prises dans les cas où la durée hebdomadaire moyenne du travail est calculée sur plusieurs semaines;
  - v) les repos dans la mesure où ils ne sont pas considérés comme faisant partie des heures de travail;
- b) inscrire sur un registre, selon le mode approuvé par l'autorité compétente, toutes les prolongations de la durée du travail qui ont eu lieu en vertu des articles 3, paragraphe 3, 5 et 6, ainsi que le montant de leur rétribution.

## ARTICLE 8

Les rapports annuels soumis par les Membres sur l'application de la présente convention doivent comprendre des renseignements complets concernant notamment:

- a) les définitions adoptées en vertu de l'article 1, paragraphe 2;
- b) les travaux que l'autorité compétente a qualifiés comme étant, par leur nature, à fonctionnement nécessairement continu, aux fins de l'article 2, paragraphe 3;
- c) les déterminations opérées conformément à l'article 2, paragraphe 4;
- d) les décisions prises conformément aux dispositions de l'article 3;
- e) les heures supplémentaires accordées conformément à l'article 6.

## ARTICLE 9

Rien dans la présente convention n'affecte toute loi, toute coutume ou tout accord entre les employeurs et les travailleurs qui assure des conditions plus favorables que celles prévues par la présente convention.